

AMENDED IN ASSEMBLY JUNE 18, 2014

AMENDED IN ASSEMBLY JUNE 9, 2014

AMENDED IN SENATE MAY 27, 2014

AMENDED IN SENATE MAY 6, 2014

AMENDED IN SENATE APRIL 21, 2014

AMENDED IN SENATE APRIL 2, 2014

SENATE BILL

No. 1319

**Introduced by Senator Pavley
(Coauthors: Senators Hill, Lara, Leno, and Wolk)**

February 21, 2014

An act to amend Section 5654 of the Fish and Game Code, to amend Sections 8574.4, 8574.7, 8574.8, 8670.2, 8670.3, 8670.5, 8670.7, 8670.8, 8670.8.3, 8670.8.5, 8670.9, 8670.12, 8670.14, 8670.19, 8670.25, 8670.25.5, 8670.26, 8670.27, 8670.28, 8670.29, 8670.30.5, 8670.31, 8670.32, 8670.33, 8670.34, 8670.35, 8670.36, 8670.37, 8670.37.5, 8670.37.51, 8670.37.52, 8670.37.53, 8670.37.55, 8670.37.58, 8670.40, 8670.42, 8670.47.5, 8670.48, 8670.48.3, 8670.49, 8670.50, 8670.51, 8670.53, 8670.54, 8670.55, 8670.56.5, and 8670.56.6, 8670.61.5, 8670.62, 8670.64, 8670.66, 8670.67, 8670.67.5, 8670.69.4, and 8670.71 of, and to add Sections 8670.6.5, 8670.15, 8670.29.5, and 8670.32.5; 8670.40.5, and 8670.95 to, and to repeal Section 8670.69.7 of, the Government Code, to amend Section 449 of the Harbors and Navigation Code, and to amend Sections 765.5 and 7711 of the Public Utilities Code, to amend Sections 46002, 46006, 46007, 46010, 46013, 46017, 46023, 46028, and 46101 of, to repeal Sections 46008, 46014, 46015, 46016, 46019, 46024, and 46025 of, and to repeal and add Sections 46011, 46018, and 46027 of, the Revenue and Taxation Code, and to

~~amend Section 13272 of the Water Code, relating to oil spills, and making an appropriation therefor: *spills*.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 1319, as amended, Pavley. Oil spills: oil spill prevention and response.

(1) The Lempert-Keene-Seastrand Oil Spill Prevention and Response Act generally requires the administrator for oil spill response, acting at the direction of the Governor, to implement activities relating to oil spill response, including emergency drills and preparedness, and oil spill containment and cleanup, and to represent the state in any coordinated response efforts with the federal government. Existing law directs the Governor to require the administrator to amend, not in conflict with the National Contingency Plan, the California oil spill contingency plan to add a marine oil spill contingency planning section containing specified elements, including an environmentally and ecologically sensitive areas element. Existing law also requires the administrator to adopt and implement regulations governing the adequacy of oil spill contingency plans to be prepared and implemented and requires the regulations to provide for the best achievable protection of coastal and marine waters. Existing law imposes various administrative civil penalties on a person that violates specified provisions of the act based on whether it was an oil spill or an inland oil spill.

~~This bill~~

~~Senate Bill 861, if enacted, would generally expand the act and the administrator's responsibilities relating to oil spills to cover all waters of the state, as defined. By expanding the scope of crimes within the act, the bill would impose a state-mandated local program. The bill would direct the Governor to require the administrator to amend the California oil spill contingency plan to provide for the best achievable protection of all state waters, not solely coastal and marine waters, and to submit the plan to the Governor and the Legislature on or before January 1, 2017. The bill would require the regulations to provide for the best achievable protection of all waters and natural resources of the state.~~

~~The~~

~~This bill would expand the regional and local planning element of the California oil spill contingency plan to include the identification~~

and mitigation of public health and safety impacts from an oil spill in waters of the state. The bill would authorize the administrator to obtain confidential and other information from the Office of Emergency Services, the State Energy Resources Conservation and Development Commission, and other regulators, as necessary, in order for the administrator to carry out his or her duties, and would require the administrator to develop procedures in handling the obtained information. The bill would require the administrator, no later than January 1, 2016, to conduct a study and evaluation for inland areas of the state and would require the administrator to obtain annually, at a minimum, information on the modes of transportation of oil into and within the state and the properties of the oil and to provide this information to the Oil Spill Technical Advisory Committee. The bill would also require the administrator, in consultation with the appropriate local, state, and federal regulators, to conduct a comprehensive risk assessment of nonvessel modes of transportation oil and to identify those operations that pose the highest risk of a pollution incident in state waters, as specified, and would require the administrator to obtain and make publicly available, as specified, previously filed information related to the transport of oil through, near, or into communities, as specified. ~~The bill, for purposes of administrative civil penalties, would no longer distinguish between an oil spill and an inland oil spill, subjecting all persons to the oil spill provisions. The bill also would revise various definitions within that act, and would make other conforming and technical changes.~~

(2) Existing law requires the administrator, within 5 working days after receipt of a contingency plan, prepared as specified, to send a notice that the plan is available for review to the Oil Spill Technical Advisory Committee.

This bill instead would require the administrator, within 5 working days after receipt of a contingency plan, to post a notice that the plan is available for review. *The bill would require the California Environmental Protection Agency and the Office of Emergency Services to review the plans for facilities and local governments located outside of the coastal zone.*

~~(3) Existing law requires the administrator to establish a network of rescue and rehabilitation stations for sea birds, sea otters, and marine mammals affected by an oil spill in marine waters.~~

This bill instead would require the administrator to establish a network of rescue, as specified, for wildlife injured by oil spills in waters of the

~~state, including sea otters and other marine mammals. The bill also would authorize the administrator to establish additional stations or facilities in the interior of the state for the rescue and rehabilitation of wildlife affected by inland spills.~~

~~(4)~~

(3) Existing law imposes an oil spill prevention and administration fee in an amount determined by the administrator to be sufficient to implement oil spill prevention activities, but not to exceed \$0.065 per barrel of crude oil or petroleum products and, beginning January 1, 2015, to an amount not to exceed \$0.05, on persons owning crude oil or petroleum products at a marine terminal. The fee is deposited into the Oil Spill Prevention and Administration Fund in the State Treasury. Upon appropriation by the Legislature, moneys in the fund are available for specified purposes.

This bill instead would require the administrator to annually determine the fee in an amount sufficient to pay the reasonable regulatory costs of specified oil spill prevention activities. The bill would delete the provision that reduces the fee beginning on January 1, 2015. The bill would additionally impose this fee on a person owning crude oil at the time the crude oil is received at a refinery, as specified, by any mode of delivery that passed over, across, under, or through waters of the state, whether from within or outside the state. ~~The bill would authorize the Director of Finance to augment a specified appropriation in the Budget Act of 2014 for the reasonable costs incurred by the State Board of Equalization related to the collection of the oil spill prevention and administration fee, as specified, thereby making an appropriation.~~

This bill would require every person who operates an oil refinery, marine terminal, or a pipeline to register with the State Board of Equalization. *By expanding the scope of crimes in the act, this bill would impose a state-mandated local program.*

~~(5) Existing law imposes a uniform oil spill response fee on specified persons, except specified independent crude oil producers, owning petroleum products and on pipeline operators transporting petroleum products into the state by means of a pipeline operating across, under, or through the marine waters of the state, during any period that the Oil Spill Response Trust Fund contains less than a designated amount. The money in the fund is continuously appropriated for specified purposes, including, to pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife, as specified. Existing law authorizes a person to apply to the fund for compensation for~~

damages and losses suffered as a result of an oil spill in the marine waters of the state under specified conditions.

The bill would delete the fee exception for independent crude oil producers, and would delete the provision authorizing the moneys in the fund to be used to pay for the costs of rescue, medical treatment, rehabilitation, and disposition of oiled wildlife. The bill would additionally impose the fee on pipeline operators transporting petroleum products into the state by means of a pipeline operating across, under, or through waters of the state, thereby making an appropriation by increasing the amount of moneys deposited into a continuously appropriated fund. The bill would authorize moneys in the fund to be used to respond to an imminent threat of a spill, and would authorize a person to apply to the fund for compensation for damages and losses suffered as a result of an oil spill in any waters of the state. By expanding the purposes of a continuously appropriated fund, the bill would make an appropriation.

(6) Existing law, until June 30, 2014, provides that if a loan or other transfer of money from the Oil Spill Response Trust Fund to the General Fund pursuant to the Budget Act reduces the balance of the fund to less than or equal to 95% of the designated amount, the administrator is not required to collect oil spill response fees if the annual Budget Act requires the transfer or loan to be repaid (1) to the fund with interest calculated at a rate earned by the Pooled Money Investment Account and (2) on or before June 30, 2014.

This bill would extend that date to June 30, 2017, and would provide that these provisions would be repealed on July 1, 2017.

(7)

(4) Existing law establishes the Oil Spill Technical Advisory Committee to provide public input and independent judgment of the actions of the administrator. The committee is composed of 10 members.

This bill would increase the number of members from 10 to 15 and would require the Speaker of the Assembly and the Senate Committee on Rules to each appoint one additional member who has knowledge of environmental protection and the study of ecosystems, and also would require the Governor to appoint two 3 additional members, with one having knowledge of the railroad industry and industry, another having knowledge of the oil production industry, and another having knowledge of the truck transportation industry.

(8)

(5) Existing law requires the Public Utilities Commission to establish, by regulation, the inspection of railroad locomotives, equipment, and facilities occur not less frequently than every 120 days, and, in addition to those minimum inspections, that the commission conduct focused inspections of railroad yards and track, either in coordination with the Federal Railroad Administration or as the commission determines to be necessary.

This bill would expand those inspections to include bridges and grade crossings over which oil is being transported and oil unloading facilities, as specified. The bill also would authorize the commission to regulate essential local safety hazards for the transport of oil more stringently than federal regulation, as specified.

Existing law requires the commission to report to the Legislature, on or before July 1 each year, on sites on railroad lines in the state it finds to be hazardous, as specified.

This bill would expand that annual report to the Legislature to include the timing, nature, and status of the remediation of defects or violations of federal and state law related to the transport and unloading of oil detected by the commission through its inspections.

~~(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

(6) This bill would make its provisions contingent on the enactment of SB 861 of the 2013–14 Regular Session.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: ~~yes~~-no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. ~~Section 5654 of the Fish and Game Code is~~
2 ~~amended to read:~~

1 ~~5654. (a) (1) Notwithstanding Section 7715 and except as~~
2 ~~provided in paragraph (2), the director, within 24 hours of~~
3 ~~notification of a spill or discharge, as those terms are defined in~~
4 ~~Section 8670.3 of the Government Code, where any fishing,~~
5 ~~including all commercial, recreational, and nonlicensed subsistence~~
6 ~~fishing, may take place, or where aquaculture operations are taking~~
7 ~~place, shall close to the take of all fish and shellfish all waters in~~
8 ~~the vicinity of the spill or discharge or where the spilled or~~
9 ~~discharged material has spread, or is likely to spread. In~~
10 ~~determining where a spill or discharge is likely to spread, the~~
11 ~~director shall consult with the Administrator of the Office of Spill~~
12 ~~Prevention and Response. At the time of closure, the department~~
13 ~~shall make all reasonable efforts to notify the public of the closure,~~
14 ~~including notification to commercial and recreational fishing~~
15 ~~organizations, and posting of warnings on public piers and other~~
16 ~~locations where subsistence fishing is known to occur. The~~
17 ~~department shall coordinate, when possible, with local and regional~~
18 ~~agencies and organizations to expedite public notification.~~

19 ~~(2) Closure pursuant to paragraph (1) is not required if, within~~
20 ~~24 hours of notification of a spill or discharge, the Office of~~
21 ~~Environmental Health Hazard Assessment finds that a public health~~
22 ~~threat does not or is unlikely to exist.~~

23 ~~(b) Within 48 hours of notification of a spill or discharge subject~~
24 ~~to subdivision (a), the director, in consultation with the Office of~~
25 ~~Environmental Health Hazard Assessment, shall make an~~
26 ~~assessment and determine all of the following:~~

27 ~~(1) The danger posed to the public from fishing in the area where~~
28 ~~the spill or discharge occurred or spread, and the danger of~~
29 ~~consuming fish taken in the area where the spill or discharge~~
30 ~~occurred or spread.~~

31 ~~(2) Whether the areas closed for the take of fish or shellfish~~
32 ~~should be expanded to prevent any potential take or consumption~~
33 ~~of any fish or shellfish that may have been contaminated by the~~
34 ~~spill or discharge.~~

35 ~~(3) The likely period for maintaining a closure on the take of~~
36 ~~fish and shellfish in order to prevent any possible contaminated~~
37 ~~fish or shellfish from being taken or consumed or other threats to~~
38 ~~human health.~~

39 ~~(e) Within 48 hours after receiving notification of a spill or~~
40 ~~discharge subject to subdivision (a), or as soon as is feasible, the~~

1 director, in consultation with the Office of Environmental Health
2 Hazard Assessment, shall assess and determine the potential danger
3 from consuming fish that have been contained in a recirculating
4 seawater tank onboard a vessel that may become contaminated by
5 the vessel's movement through an area where the spill or discharge
6 occurred or spread.

7 (d) ~~If the director finds in his or her assessment pursuant to~~
8 ~~subdivision (b) that there is no significant risk to the public or to~~
9 ~~the fisheries, the director may immediately reopen the closed area~~
10 ~~and waive the testing requirements of subdivisions (e) and (f).~~

11 (e) ~~Except under the conditions specified in subdivision (d),~~
12 ~~after complying with subdivisions (a) and (b), the director, in~~
13 ~~consultation with the Office of Environmental Health Hazard~~
14 ~~Assessment, but in no event more than seven days from the~~
15 ~~notification of the spill or discharge, shall order expedited tests of~~
16 ~~fish and shellfish that would have been open for take for~~
17 ~~commercial, recreational, or subsistence purposes in the closed~~
18 ~~area if not for the closure, to determine the levels of contamination,~~
19 ~~if any, and whether the fish or shellfish is safe for human~~
20 ~~consumption.~~

21 (f) (1) ~~Within 24 hours of receiving a notification from the~~
22 ~~Office of Environmental Health Hazard Assessment that no threat~~
23 ~~to human health exists from the spill or discharge or that no~~
24 ~~contaminant from the spill or discharge is present that could~~
25 ~~contaminate fish or shellfish, the director shall reopen the areas~~
26 ~~closed pursuant to this section. The director may maintain a closure~~
27 ~~in any remaining portion of the closed area where the Office of~~
28 ~~Environmental Health Hazard Assessment finds contamination~~
29 ~~from the spill or discharge persists that may adversely affect human~~
30 ~~health.~~

31 (2) ~~The director, in consultation with the commission, may also~~
32 ~~maintain a closure in any remaining portion of the closed area~~
33 ~~where commercial fishing or aquaculture occurs and where the~~
34 ~~department determines, pursuant to this paragraph, that~~
35 ~~contamination from the spill or discharge persists that may cause~~
36 ~~the waste of commercial fish or shellfish as regulated by Section~~
37 ~~7701.~~

38 (g) ~~To the extent feasible, the director shall consult with~~
39 ~~representatives of commercial and recreational fishing associations~~
40 ~~and subsistence fishing communities regarding the extent and~~

1 duration of a closure, testing protocols, and findings. If a spill or
2 discharge occurs within the lands governed by a Native American
3 tribe or affects waters flowing through tribal lands, or tribal
4 fisheries, the director shall consult with the affected tribal
5 governments.

6 (h) ~~The director shall seek full reimbursement from the~~
7 ~~responsible party or parties for the spill or discharge for all~~
8 ~~reasonable costs incurred by the department in carrying out this~~
9 ~~section, including, but not limited to, all testing.~~

10 ~~SEC. 2. Section 8574.4 of the Government Code is amended~~
11 ~~to read:~~

12 ~~8574.4. State agencies designated to implement the contingency~~
13 ~~plan shall account for all state expenditures made under the plan~~
14 ~~with respect to each oil spill. Expenditures accounted for under~~
15 ~~this section from an oil spill in waters of the state shall be paid~~
16 ~~from the Oil Spill Response Trust Fund created pursuant to Section~~
17 ~~8670.46. All other expenditures accounted for under this section~~
18 ~~shall be paid from the State Water Pollution Cleanup and~~
19 ~~Abatement Account in the State Water Quality Control Fund~~
20 ~~provided for in Article 3 (commencing with Section 13440) of~~
21 ~~Chapter 6 of Division 7 of the Water Code. If the party responsible~~
22 ~~for the spill is identified, that party shall be liable for the~~
23 ~~expenditures accounted for under this section, in addition to any~~
24 ~~other liability that may be provided for by law, in an action brought~~
25 ~~by the Attorney General. The proceeds from any action for a spill~~
26 ~~in marine waters shall be paid into the Oil Spill Response Trust~~
27 ~~Fund.~~

28 ~~SEC. 3.~~

29 ~~SECTION 1. Section 8574.7 of the Government Code is~~
30 ~~amended to read:~~

31 ~~8574.7. The Governor shall require the administrator, not in~~
32 ~~conflict with the National Contingency Plan, to amend the~~
33 ~~California oil spill contingency plan to provide for the best~~
34 ~~achievable protection of waters of the state. "Administrator" for~~
35 ~~purposes of this section means the administrator appointed by the~~
36 ~~Governor pursuant to Section 8670.4. The plan shall consist of all~~
37 ~~of the following elements:~~

38 (a) ~~A state response element that specifies the hierarchy for state~~
39 ~~and local agency response to an oil spill. The element shall define~~
40 ~~the necessary tasks for oversight and control of cleanup and~~

1 removal activities associated with an oil spill and shall specify
2 each agency's particular responsibility in carrying out these tasks.
3 The element shall also include an organizational chart of the state
4 oil spill response organization and a definition of the resources,
5 capabilities, and response assignments of each agency involved
6 in cleanup and removal actions in an oil spill.

7 (b) A regional and local planning element that shall provide the
8 framework for the involvement of regional and local agencies in
9 the state effort to respond to an oil spill, and shall ensure the
10 effective and efficient use of regional and local resources, as
11 appropriate, in all of the following:

12 (1) Traffic and crowd control.

13 (2) Firefighting.

14 (3) Boating traffic control.

15 (4) Radio and communications control and provision of access
16 to equipment.

17 (5) Identification and use of available local and regional
18 equipment or other resources suitable for use in cleanup and
19 removal actions.

20 (6) Identification of private and volunteer resources or personnel
21 with special or unique capabilities relating to oil spill cleanup and
22 removal actions.

23 (7) Provision of medical emergency services.

24 (8) Identification and mitigation of public health and safety
25 impacts.

26 (9) Consideration of the identification and use of private working
27 craft and mariners, including commercial fishing vessels and
28 licensed commercial fishing men and women, in containment,
29 cleanup, and removal actions.

30 (c) A coastal protection element that establishes the state
31 standards for coastline protection. The administrator, in
32 consultation with the Coast Guard and Navy and the shipping
33 industry, shall develop criteria for coastline protection. If
34 appropriate, the administrator shall consult with representatives
35 from the States of Alaska, Washington, and Oregon, the Province
36 of British Columbia in Canada, and the Republic of Mexico. The
37 criteria shall designate at least all of the following:

38 (1) Appropriate shipping lanes and navigational aids for tankers,
39 barges, and other commercial vessels to reduce the likelihood of
40 collisions between tankers, barges, and other commercial vessels.

1 Designated shipping lanes shall be located off the coastline at a
2 distance sufficient to significantly reduce the likelihood that
3 disabled vessels will run aground along the coast of the state.

4 (2) Ship position reporting and communications requirements.

5 (3) Required predeployment of protective equipment for
6 sensitive environmental areas along the coastline.

7 (4) Required emergency response vessels that are capable of
8 preventing disabled tankers from running aground.

9 (5) Required emergency response vessels that are capable of
10 commencing oil cleanup operations before spilled oil can reach
11 the shoreline.

12 (6) An expedited decisionmaking process for dispersant use in
13 coastal waters. Prior to adoption of the process, the administrator
14 shall ensure that a comprehensive testing program is carried out
15 for any dispersant proposed for use in California marine waters.
16 The testing program shall evaluate toxicity and effectiveness of
17 the dispersants.

18 (7) Required rehabilitation facilities for wildlife injured by
19 spilled oil.

20 (8) An assessment of how activities that usually require a permit
21 from a state or local agency may be expedited or issued by the
22 administrator in the event of an oil spill.

23 (d) An environmentally and ecologically sensitive areas element
24 that shall provide the framework for prioritizing and ensuring the
25 protection of environmentally and ecologically sensitive areas.
26 The environmentally and ecologically sensitive areas element shall
27 be developed by the administrator, in conjunction with appropriate
28 local agencies, and shall include all of the following:

29 (1) Identification and prioritization of environmentally and
30 ecologically sensitive areas in state waters and along the coast.
31 Identification and prioritization of environmentally and ecologically
32 sensitive areas shall not prevent or excuse the use of all reasonably
33 available containment and cleanup resources from being used to
34 protect every environmentally and ecologically sensitive area
35 possible. Environmentally and ecologically sensitive areas shall
36 be prioritized through the evaluation of criteria, including, but not
37 limited to, all of the following:

38 (A) Risk of contamination by oil after a spill.

39 (B) Environmental, ecological, recreational, and economic
40 importance.

1 (C) Risk of public exposure should the area be contaminated.

2 (2) Regional maps depicting environmentally and ecologically
3 sensitive areas in state waters or along the coast that shall be
4 distributed to facilities and local and state agencies. The maps shall
5 designate those areas that have particularly high priority for
6 protection against oil spills.

7 (3) A plan for protection actions required to be taken in the
8 event of an oil spill for each of the environmentally and
9 ecologically sensitive areas and protection priorities for the first
10 24 to 48 hours after an oil spill shall be specified.

11 (4) The location of available response equipment and the
12 availability of trained personnel to deploy the equipment to protect
13 the priority environmentally and ecologically sensitive areas.

14 (5) A program for systemically testing and revising, if necessary,
15 protection strategies for each of the priority environmentally and
16 ecologically sensitive areas.

17 (6) Any recommendations for action that cannot be financed or
18 implemented pursuant to existing authority of the administrator,
19 which shall also be reported to the Legislature along with
20 recommendations for financing those actions.

21 (e) A reporting element that requires the reporting of oil spills
22 of any amount of oil into state waters.

23 ~~SEC. 4. Section 8574.8 of the Government Code is amended~~
24 ~~to read:~~

25 ~~8574.8. (a) The administrator shall submit to the Governor~~
26 ~~and the Legislature an amended California oil spill contingency~~
27 ~~plan required, pursuant to Section 8574.7, by January 1, 1993. The~~
28 ~~administrator shall thereafter submit revised plans every three~~
29 ~~years, until the amended plan required pursuant to subdivision (b)~~
30 ~~is submitted.~~

31 ~~(b) The administrator shall submit to the Governor and the~~
32 ~~Legislature an amended California oil spill contingency plan~~
33 ~~required pursuant to Section 8574.7, on or before January 1, 2017,~~
34 ~~that addresses marine and inland oil spills. The administrator shall~~
35 ~~thereafter submit revised plans every three years.~~

36 ~~SEC. 5. Section 8670.2 of the Government Code is amended~~
37 ~~to read:~~

38 ~~8670.2. The Legislature finds and declares as follows:~~

- 1 ~~(a) Each year, billions of gallons of crude oil and petroleum~~
2 ~~products are transported by vessel, railroad, truck, or pipeline over,~~
3 ~~across, under, and through the waters of this state.~~
- 4 ~~(b) Recent accidents in southern California, Alaska, other parts~~
5 ~~of the nation, and Canada, have shown that transportation of oil~~
6 ~~can be a significant threat to the environment of sensitive areas~~
7 ~~and to public health and safety.~~
- 8 ~~(c) Existing prevention programs are not able to reduce~~
9 ~~sufficiently the risk of significant discharge of petroleum into state~~
10 ~~waters.~~
- 11 ~~(d) Response and cleanup capabilities and technology are unable~~
12 ~~to remove consistently the majority of spilled oil when major oil~~
13 ~~spills occur in state waters.~~
- 14 ~~(e) California's lakes, rivers, other inland waters, coastal waters,~~
15 ~~estuaries, bays, and beaches are treasured environmental and~~
16 ~~economic resources that the state cannot afford to place at undue~~
17 ~~risk from an oil spill.~~
- 18 ~~(f) Because of the inadequacy of existing cleanup and response~~
19 ~~measures and technology, the emphasis must be put on prevention,~~
20 ~~if the risk and consequences of oil spills are to be minimized.~~
- 21 ~~(g) Improvements in the design, construction, and operation of~~
22 ~~rail tank cars, tank trucks, tank ships, terminals, and pipelines;~~
23 ~~improvements in marine safety; maintenance of emergency~~
24 ~~response stations and personnel; and stronger inspection and~~
25 ~~enforcement efforts are necessary to reduce the risks of and from~~
26 ~~a major oil spill.~~
- 27 ~~(h) A major oil spill in state waters is extremely expensive~~
28 ~~because of the need to clean up discharged oil, protect sensitive~~
29 ~~environmental areas, and restore ecosystem damage.~~
- 30 ~~(i) Immediate action must be taken to improve control and~~
31 ~~cleanup technology in order to strengthen the capabilities and~~
32 ~~capacities of cleanup operations.~~
- 33 ~~(j) California government should improve its response and~~
34 ~~management of oil spills that occur in state waters.~~
- 35 ~~(k) Those who transport oil through or near the waters of the~~
36 ~~state must meet minimum safety standards and demonstrate~~
37 ~~financial responsibility.~~
- 38 ~~(l) The federal government plays an important role in preventing~~
39 ~~and responding to petroleum spills and it is in the interests of the~~
40 ~~state to coordinate with agencies of the federal government,~~

1 including the Coast Guard and the United States Environmental
2 Protection Agency, to the greatest degree possible.

3 (m) ~~California has approximately 1,100 miles of coast, including~~
4 ~~four marine sanctuaries that occupy 88,767 square miles. The~~
5 ~~weather, topography, and tidal currents in and around California's~~
6 ~~coastal ports and waterways make vessel navigation challenging.~~
7 ~~The state's major ports are among the busiest in the world.~~
8 ~~Approximately 700 million barrels of oil are consumed annually~~
9 ~~by California, with over 500 million barrels being transported by~~
10 ~~vessel. The peculiarities of California's maritime coast require~~
11 ~~special precautionary measures regarding oil pollution.~~

12 (n) ~~California has approximately 158,500 square miles of interior~~
13 ~~area where there are approximately 6,800 miles of pipeline used~~
14 ~~for oil distribution, 5,800 miles of Class I railroad track, and~~
15 ~~172,100 miles of maintained roads.~~

16 SEC. 6. ~~Section 8670.3 of the Government Code is amended~~
17 ~~to read:~~

18 ~~8670.3. Unless the context requires otherwise, the following~~
19 ~~definitions shall govern the construction of this chapter:~~

20 (a) ~~"Administrator" means the administrator for oil spill response~~
21 ~~appointed by the Governor pursuant to Section 8670.4.~~

22 (b) (1) ~~"Best achievable protection" means the highest level of~~
23 ~~protection that can be achieved through both the use of the best~~
24 ~~achievable technology and those manpower levels, training~~
25 ~~procedures, and operational methods that provide the greatest~~
26 ~~degree of protection achievable. The administrator's determination~~
27 ~~of which measures provide the best achievable protection shall be~~
28 ~~guided by the critical need to protect valuable natural resources~~
29 ~~and state waters, while also considering all of the following:~~

30 (A) ~~The protection provided by the measure.~~

31 (B) ~~The technological achievability of the measure.~~

32 (C) ~~The cost of the measure.~~

33 (2) ~~The administrator shall not use a cost-benefit or~~
34 ~~cost-effectiveness analysis or any particular method of analysis in~~
35 ~~determining which measures provide the best achievable protection.~~
36 ~~The administrator shall instead, when determining which measures~~
37 ~~provide best achievable protection, give reasonable consideration~~
38 ~~to the protection provided by the measures, the technological~~
39 ~~achievability of the measures, and the cost of the measures when~~

1 ~~establishing the requirements to provide the best achievable~~
2 ~~protection for the natural resources of the state.~~

3 ~~(e) (1) “Best achievable technology” means that technology~~
4 ~~that provides the greatest degree of protection, taking into~~
5 ~~consideration both of the following:~~

6 ~~(A) Processes that are being developed, or could feasibly be~~
7 ~~developed anywhere in the world, given overall reasonable~~
8 ~~expenditures on research and development.~~

9 ~~(B) Processes that are currently in use anywhere in the world.~~

10 ~~(2) In determining what is the best achievable technology~~
11 ~~pursuant to this chapter, the administrator shall consider the~~
12 ~~effectiveness and engineering feasibility of the technology.~~

13 ~~(d) “California oil spill contingency plan” means the California~~
14 ~~oil spill contingency plan prepared pursuant to Article 3.5~~
15 ~~(commencing with Section 8574.1) of Chapter 7.~~

16 ~~(e) “Dedicated response resources” means equipment and~~
17 ~~personnel committed solely to oil spill response, containment, and~~
18 ~~cleanup that are not used for any other activity that would adversely~~
19 ~~affect the ability of that equipment and personnel to provide oil~~
20 ~~spill response services in the timeframes for which the equipment~~
21 ~~and personnel are rated.~~

22 ~~(f) “Environmentally sensitive area” means an area defined~~
23 ~~pursuant to the applicable area contingency plans or geographic~~
24 ~~response plans, as created and revised by the Coast Guard, the~~
25 ~~United States Environmental Protection Agency, and the~~
26 ~~administrator.~~

27 ~~(g) (1) “Facility” means any of the following located in state~~
28 ~~waters or located where an oil spill may impact state waters:~~

29 ~~(A) A building, structure, installation, or equipment used in oil~~
30 ~~exploration, oil well drilling operations, oil production, oil refining,~~
31 ~~oil storage, oil gathering, oil processing, oil transfer, oil~~
32 ~~distribution, or oil transportation.~~

33 ~~(B) A marine terminal.~~

34 ~~(C) A pipeline that transports oil.~~

35 ~~(D) A railroad that transports oil as cargo.~~

36 ~~(E) A drill ship, semisubmersible drilling platform, jack-up type~~
37 ~~drilling rig, or any other floating or temporary drilling platform.~~

38 ~~(2) “Facility” does not include any of the following:~~

39 ~~(A) A vessel, except a vessel located and used for any purpose~~
40 ~~described in subparagraph (E) of paragraph (1).~~

- 1 ~~(B) An owner or operator subject to Chapter 6.67 (commencing~~
2 ~~with Section 25270) or Chapter 6.75 (commencing with Section~~
3 ~~25299.10) of Division 20 of the Health and Safety Code.~~
- 4 ~~(C) Operations on a farm, nursery, logging site, or construction~~
5 ~~site that are either of the following:~~
- 6 ~~(i) Do not exceed 20,000 gallons in a single storage tank.~~
7 ~~(ii) Have a useable tank storage capacity not exceeding 75,000~~
8 ~~gallons.~~
- 9 ~~(D) A small craft refueling dock.~~
- 10 ~~(h) “Local government” means a chartered or general law city,~~
11 ~~a chartered or general law county, or a city and county.~~
- 12 ~~(i) (1) “Marine terminal” means any facility used for~~
13 ~~transferring oil to or from a tank ship or tank barge.~~
- 14 ~~(2) “Marine terminal” includes, for purposes of this chapter, all~~
15 ~~piping not integrally connected to a tank facility, as defined in~~
16 ~~subdivision (n) of Section 25270.2 of the Health and Safety Code.~~
- 17 ~~(j) “Mobile transfer unit” means a vehicle, truck, or trailer,~~
18 ~~including all connecting hoses and piping, used for the transferring~~
19 ~~of oil at a location where a discharge could impact waters of the~~
20 ~~state.~~
- 21 ~~(k) “Nondedicated response resources” means those response~~
22 ~~resources identified by an Oil Spill Response Organization for oil~~
23 ~~spill response activities that are not dedicated response resources.~~
- 24 ~~(l) “Nonpersistent oil” means a petroleum-based oil, such as~~
25 ~~gasoline or jet fuel, that evaporates relatively quickly and is an oil~~
26 ~~with hydrocarbon fractions, at least 50 percent of which, by~~
27 ~~volume, distills at a temperature of 645 degrees Fahrenheit, and~~
28 ~~at least 95 percent of which, by volume, distills at a temperature~~
29 ~~of 700 degrees Fahrenheit.~~
- 30 ~~(m) “Nontank vessel” means a vessel of 300 gross tons or greater~~
31 ~~that carries oil, but does not carry that oil as cargo.~~
- 32 ~~(n) “Oil” means any kind of petroleum, liquid hydrocarbons,~~
33 ~~or petroleum products or any fraction or residues therefrom,~~
34 ~~including, but not limited to, crude oil, bunker fuel, gasoline, diesel~~
35 ~~fuel, aviation fuel, oil sludge, oil refuse, oil mixed with waste, and~~
36 ~~liquid distillates from unprocessed natural gas.~~
- 37 ~~(o) “Oil spill cleanup agent” means a chemical, or any other~~
38 ~~substance, used for removing, dispersing, or otherwise cleaning~~
39 ~~up oil or any residual products of petroleum in, or on, any of the~~
40 ~~waters of the state.~~

1 ~~(p) “Oil spill contingency plan” or “contingency plan” means~~
2 ~~the oil spill contingency plan required pursuant to Article 5~~
3 ~~(commencing with Section 8670.28).~~

4 ~~(q) (1) “Oil Spill Response Organization” or “OSRO” means~~
5 ~~an individual, organization, association, cooperative, or other entity~~
6 ~~that provides, or intends to provide, equipment, personnel, supplies,~~
7 ~~or other services directly related to oil spill containment, cleanup,~~
8 ~~or removal activities.~~

9 ~~(2) “OSRO” does not include an owner or operator with an oil~~
10 ~~spill contingency plan approved by the administrator or an entity~~
11 ~~that only provides spill management services, or who provides~~
12 ~~services or equipment that are only ancillary to containment,~~
13 ~~cleanup, or removal activities.~~

14 ~~(r) (1) “Owner” or “operator” means any of the following:~~

15 ~~(A) In the case of a vessel, a person who owns, has an ownership~~
16 ~~interest in, operates, charters by demise, or leases the vessel.~~

17 ~~(B) In the case of a facility, a person who owns, has an~~
18 ~~ownership interest in, or operates the facility.~~

19 ~~(C) Except as provided in subparagraph (D), in the case of a~~
20 ~~vessel or facility, where title or control was conveyed due to~~
21 ~~bankruptcy, foreclosure, tax delinquency, abandonment, or similar~~
22 ~~means to an entity of state or local government, a person who~~
23 ~~owned, held an ownership interest in, operated, or otherwise~~
24 ~~controlled activities concerning the vessel or facility immediately~~
25 ~~beforehand.~~

26 ~~(D) An entity of the state or local government that acquired~~
27 ~~ownership or control of a vessel or facility, when the entity of the~~
28 ~~state or local government has caused or contributed to a spill or~~
29 ~~discharge of oil into waters of the state.~~

30 ~~(2) “Owner” or “operator” does not include a person who,~~
31 ~~without participating in the management of a vessel or facility,~~
32 ~~holds indicia of ownership primarily to protect the person’s security~~
33 ~~interest in the vessel or facility.~~

34 ~~(3) “Operator” does not include a person who owns the land~~
35 ~~underlying a facility or the facility itself if the person is not~~
36 ~~involved in the operations of the facility.~~

37 ~~(s) “Person” means an individual, trust, firm, joint stock~~
38 ~~company, or corporation, including, but not limited to, a~~
39 ~~government corporation, partnership, and association. “Person”~~
40 ~~also includes a city, county, city and county, district, and the state~~

1 or any department or agency thereof, and the federal government,
2 or any department or agency thereof, to the extent permitted by
3 law.

4 (t) “Pipeline” means a pipeline used at any time to transport oil.

5 (u) “Railroad” means a railroad, railway, railcar, rolling stock,
6 or train.

7 (v) “Rated OSRO” means an OSRO that has received a
8 satisfactory rating from the administrator for a particular rating
9 level established pursuant to Section 8670.30.

10 (w) “Responsible party” or “party responsible” means any of
11 the following:

12 (1) The owner or transporter of oil or a person or entity accepting
13 responsibility for the oil.

14 (2) The owner, operator, or lessee of, or a person that charters
15 by demise, a vessel or facility, or a person or entity accepting
16 responsibility for the vessel or facility.

17 (x) “Small craft” means a vessel, other than a tank ship or tank
18 barge, that is less than 20 meters in length.

19 (y) “Small craft refueling dock” means a waterside operation
20 that dispenses only nonpersistent oil in bulk and small amounts of
21 persistent lubrication oil in containers primarily to small craft and
22 meets both of the following criteria:

23 (1) Has tank storage capacity not exceeding 20,000 gallons in
24 any single storage tank or tank compartment.

25 (2) Has total usable tank storage capacity not exceeding 75,000
26 gallons.

27 (z) “Small marine fueling facility” means either of the following:

28 (1) A mobile transfer unit.

29 (2) A fixed facility that is not a marine terminal, that dispenses
30 primarily nonpersistent oil, that may dispense small amounts of
31 persistent oil, primarily to small craft, and that meets all of the
32 following criteria:

33 (A) Has tank storage capacity greater than 20,000 gallons but
34 not more than 40,000 gallons in any single storage tank or storage
35 tank compartment.

36 (B) Has total usable tank storage capacity not exceeding 75,000
37 gallons.

38 (C) Had an annual throughput volume of over-the-water transfers
39 of oil that did not exceed 3,000,000 gallons during the most recent
40 preceding 12-month period.

1 (aa) ~~“Spill,” “discharge,” or “oil spill” means a release of any~~
2 ~~amount of oil into waters of the state that is not authorized by a~~
3 ~~federal, state, or local government entity.~~

4 (ab) ~~“Tank barge” means a vessel that carries oil in commercial~~
5 ~~quantities as cargo but is not equipped with a means of~~
6 ~~self-propulsion.~~

7 (ac) ~~“Tank ship” means a self-propelled vessel that is~~
8 ~~constructed or adapted for the carriage of oil in bulk or in~~
9 ~~commercial quantities as cargo.~~

10 (ad) ~~“Tank vessel” means a tank ship or tank barge.~~

11 (ae) ~~“Vessel” means a watercraft or ship of any kind, including~~
12 ~~every structure adapted to be navigated from place to place for the~~
13 ~~transportation of merchandise or persons.~~

14 (af) ~~“Vessel carrying oil as secondary cargo” means a vessel~~
15 ~~that does not carry oil as a primary cargo, but does carry oil as~~
16 ~~cargo. The administrator may establish minimum oil volume~~
17 ~~amounts or other criteria by regulations.~~

18 (ag) ~~“Waters of the state” or “state waters” means any surface~~
19 ~~water, including saline waters, marine waters, and freshwaters,~~
20 ~~within the boundaries of the state but does not include groundwater.~~

21 ~~SEC. 7. Section 8670.5 of the Government Code is amended~~
22 ~~to read:~~

23 ~~8670.5. The Governor shall ensure that the state fully and~~
24 ~~adequately responds to all oil spills in waters of the state. The~~
25 ~~administrator, acting at the direction of the Governor, shall~~
26 ~~implement activities relating to oil spill response, including drills~~
27 ~~and preparedness and oil spill containment and cleanup. The~~
28 ~~administrator shall also represent the state in any coordinated~~
29 ~~response efforts with the federal government.~~

30 ~~SEC. 8.~~

31 ~~SEC. 2. Section 8670.6.5 is added to the Government Code,~~
32 ~~to read:~~

33 ~~8670.6.5. The administrator may obtain confidential and other~~
34 ~~information protected from public disclosure from the Office of~~
35 ~~Emergency Services, the State Energy Resources Conservation~~
36 ~~and Development Commission, and other regulators, as necessary,~~
37 ~~in order for the administrator to carry out his or her duties. The~~
38 ~~administrator shall develop procedures for handling the obtained~~
39 ~~information consistent with the California Public Records Act~~

1 (Chapter 3.5 (commencing with Section 6250) of Division 7 of
2 Title 1) and federal law.

3 ~~SEC. 9. Section 8670.7 of the Government Code is amended~~
4 ~~to read:~~

5 ~~8670.7. (a) The administrator, subject to the Governor, has~~
6 ~~the primary authority to direct prevention, removal, abatement,~~
7 ~~response, containment, and cleanup efforts with regard to all~~
8 ~~aspects of any oil spill in waters of the state, in accordance with~~
9 ~~any applicable facility or vessel contingency plan and the California~~
10 ~~oil spill contingency plan. The administrator shall cooperate with~~
11 ~~any federal on-scene coordinator, as specified in the National~~
12 ~~Contingency Plan.~~

13 ~~(b) The administrator shall implement the California oil spill~~
14 ~~contingency plan, required pursuant to Section 8574.1, to the fullest~~
15 ~~extent possible.~~

16 ~~(c) The administrator shall do both of the following:~~

17 ~~(1) Be present at the location of any oil spill of more than~~
18 ~~100,000 gallons in waters of the state, as soon as possible after~~
19 ~~notice of the discharge.~~

20 ~~(2) Ensure that persons trained in oil spill response and cleanup,~~
21 ~~whether employed by the responsible party, the state, or another~~
22 ~~private or public person or entity, are onsite to respond to, contain,~~
23 ~~and clean up any oil spill in waters of the state, as soon as possible~~
24 ~~after notice of the discharge.~~

25 ~~(d) Throughout the response and cleanup process, the~~
26 ~~administrator shall apprise the air quality management district or~~
27 ~~air pollution control district having jurisdiction over the area in~~
28 ~~which the oil spill occurred and the local government agencies~~
29 ~~that are affected by the spill.~~

30 ~~(e) The administrator, with the assistance, as needed, of the~~
31 ~~Office of the State Fire Marshal, the State Lands Commission, or~~
32 ~~other state agency, and the federal on-scene coordinator, shall~~
33 ~~determine the cause and amount of the discharge.~~

34 ~~(f) The administrator shall have the state authority over the use~~
35 ~~of all response methods, including, but not limited to, in situ~~
36 ~~burning, dispersants, and any oil spill cleanup agents in connection~~
37 ~~with an oil discharge. The administrator shall consult with the~~
38 ~~federal on-scene coordinator prior to exercising authority under~~
39 ~~this subdivision.~~

1 ~~(g) (1) The administrator shall conduct workshops, consistent~~
2 ~~with the intent of this chapter, with the participation of appropriate~~
3 ~~local, state, and federal agencies, including the State Air Resources~~
4 ~~Board, air pollution control and air quality management districts,~~
5 ~~and affected private organizations, on the subject of oil spill~~
6 ~~response technologies, including in situ burning. The workshops~~
7 ~~shall review the latest research and findings regarding the efficacy~~
8 ~~and toxicity of oil spill cleanup agents and other technologies, their~~
9 ~~potential public health and safety and environmental impacts, and~~
10 ~~any other relevant factors concerning their use in oil spill response.~~
11 ~~In conducting these workshops, the administrator shall solicit the~~
12 ~~views of all participating parties concerning the use of these~~
13 ~~technologies, with particular attention to any special considerations~~
14 ~~that apply to coastal areas and waters of the state.~~

15 ~~(2) The administrator shall publish guidelines and conduct~~
16 ~~periodic reviews of the policies, procedures, and parameters for~~
17 ~~the use of in situ burning, which may be implemented in the event~~
18 ~~of an oil spill.~~

19 ~~(h) (1) The administrator shall ensure that, as part of the~~
20 ~~response to any significant spill, biologists or other personnel are~~
21 ~~present and provided any support and funding necessary and~~
22 ~~appropriate for the assessment of damages to natural resources~~
23 ~~and for the collection of data and other evidence that may help in~~
24 ~~determining and recovering damages.~~

25 ~~(2) (A) The administrator shall coordinate all actions required~~
26 ~~by state or local agencies to assess injury to, and provide full~~
27 ~~mitigation for injury to, or to restore, rehabilitate, or replace, natural~~
28 ~~resources, including wildlife, fisheries, wildlife or fisheries habitat,~~
29 ~~beaches, and coastal areas, that are damaged by an oil spill. For~~
30 ~~purposes of this subparagraph, “actions required by state or local~~
31 ~~agencies” include, but are not limited to, actions required by state~~
32 ~~trustees under Section 1006 of the Oil Pollution Act of 1990 (33~~
33 ~~U.S.C. Sec. 2706) and actions required pursuant to Section~~
34 ~~8670.61.5.~~

35 ~~(B) The responsible party shall be liable for all coordination~~
36 ~~costs incurred by the administrator.~~

37 ~~(3) This subdivision does not give the administrator any~~
38 ~~authority to administer state or local laws or to limit the authority~~
39 ~~of another state or local agency to implement and enforce state or~~
40 ~~local laws under its jurisdiction, nor does this subdivision limit~~

1 the authority or duties of the administrator under this chapter or
2 limit the authority of an agency to enforce existing permits or
3 permit conditions.

4 (i) ~~(1) The administrator shall enter into a memorandum of~~
5 ~~understanding with the Executive Director of the State Water~~
6 ~~Resources Control Board, acting for the State Water Resources~~
7 ~~Control Board and the California regional water quality control~~
8 ~~boards, and with the approval of the State Water Resources Control~~
9 ~~Board, to address discharges, other than dispersants, that are~~
10 ~~incidental to, or directly associated with, the response, containment,~~
11 ~~and cleanup of an existing or threatened oil spill conducted~~
12 ~~pursuant to this chapter.~~

13 ~~(2) The memorandum of understanding entered into pursuant~~
14 ~~to paragraph (1) shall address any permits, requirements, or~~
15 ~~authorizations that are required for the specified discharges. The~~
16 ~~memorandum of understanding shall be consistent with~~
17 ~~requirements that protect state water quality and beneficial uses~~
18 ~~and with any applicable provisions of the Porter-Cologne Water~~
19 ~~Quality Control Act (Division 7 (commencing with Section 13000)~~
20 ~~of the Water Code) or the federal Clean Water Act (33 U.S.C. Sec.~~
21 ~~1251 et seq.), and shall expedite efficient oil spill response.~~

22 ~~SEC. 10.~~

23 *SEC. 3.* Section 8670.8 of the Government Code is amended
24 to read:

25 8670.8. (a) The administrator shall carry out programs to
26 provide training for individuals in response, containment, and
27 cleanup operations and equipment, equipment deployment, and
28 the planning and management of these programs. These programs
29 may include training for members of the California Conservation
30 Corps, other response personnel employed by the state, personnel
31 employed by other public entities, personnel from marine facilities,
32 commercial fishermen and other mariners, and interested members
33 of the public. Training may be offered for volunteers.

34 (b) The administrator may offer training to anyone who is
35 required to take part in response and cleanup efforts under the
36 California oil spill contingency plan or under local government
37 contingency plans prepared and approved under this chapter.

38 (c) Upon request by a local government, the administrator shall
39 provide a program for training and certification of a local
40 emergency responder designated as a local spill response manager

1 by a local government with jurisdiction over or directly adjacent
2 to waters of the state.

3 (d) Trained and certified local spill response managers shall
4 participate in all drills upon request of the administrator.

5 (e) As part of the training and certification program, the
6 administrator shall authorize a local spill response manager to train
7 and certify volunteers.

8 (f) In the event of an oil spill, local spill response managers
9 trained and certified pursuant to subdivision (c) shall provide the
10 state on scene coordinator with timely information on activities
11 and resources deployed by local government in response to the oil
12 spill. The local spill response manager shall cooperate with the
13 administrator and respond in a manner consistent with the area
14 contingency plan to the extent possible.

15 (g) Funding for activities undertaken pursuant to subdivisions
16 (a) to (c), inclusive, shall be from the Oil Spill Prevention and
17 Administration Fund created pursuant to Section 8670.38.

18 (h) All training provided by the administrator shall follow the
19 requirements of applicable federal and state occupational safety
20 and health standards adopted by the Occupational Safety and
21 Health Administration of the Department of Labor and the
22 Occupational Safety and Health Standards Board.

23 ~~SEC. 11.~~

24 *SEC. 4.* Section 8670.8.3 of the Government Code is amended
25 to read:

26 8670.8.3. The administrator shall offer grants to a local
27 government with jurisdiction over or directly adjacent to waters
28 of the state to provide oil spill response equipment to be deployed
29 by a local spill response manager certified pursuant to Section
30 8670.8. The administrator shall request the Legislature to
31 appropriate funds from the Oil Spill Prevention and Administration
32 Fund created pursuant to Section 8670.38 for the purposes of this
33 section.

34 ~~SEC. 12.~~ Section 8670.8.5 of the Government Code is amended
35 to read:

36 ~~8670.8.5. The administrator may use volunteer workers in~~
37 ~~response, containment, restoration, wildlife rehabilitation, and~~
38 ~~cleanup efforts for oil spills in waters of the state. The volunteers~~
39 ~~shall be deemed employees of the state for the purpose of workers'~~
40 ~~compensation under Article 2 (commencing with Section 3350)~~

1 of Chapter 2 of Part 1 of Division 4 of the Labor Code. Any
2 payments for workers' compensation pursuant to this section shall
3 be made from the Oil Spill Response Trust Fund created pursuant
4 to Section 8670.46.

5 SEC. 13. Section 8670.9 of the Government Code is amended
6 to read:

7 8670.9. (a) The administrator shall enter into discussions on
8 behalf of the state with the States of Alaska, Hawaii, Oregon, and
9 Washington, for the purpose of developing interstate agreements
10 regarding oil spill prevention and response. The agreements shall
11 address, including, but not limited to, all of the following:

12 (1) Coordination of vessel safety and traffic.

13 (2) Spill prevention equipment and response required on vessels
14 and at facilities.

15 (3) The availability of oil spill response and cleanup equipment
16 and personnel.

17 (4) Other matters that may relate to the transport of oil and oil
18 spill prevention, response, and cleanup.

19 (b) The administrator shall coordinate the development of these
20 agreements with the Coast Guard, the Province of British Columbia
21 in Canada, and the Republic of Mexico.

22 SEC. 14.

23 SEC. 5. Section 8670.12 of the Government Code is amended
24 to read:

25 8670.12. (a) (1) The administrator shall conduct studies and
26 evaluations necessary for improving oil spill response, containment,
27 and cleanup and oil spill wildlife rehabilitation in waters of the
28 state and oil transportation systems. The administrator may expend
29 moneys from the Oil Spill Prevention and Administration Fund
30 created pursuant to Section 8670.38, enter into consultation
31 agreements, and acquire necessary equipment and services for the
32 purpose of carrying out these studies and evaluations.

33 (2) On or before January 1, 2016, the administrator shall conduct
34 a study and evaluation pursuant to paragraph (1) for inland areas
35 of the state. The study and evaluation shall include, but shall not
36 be limited to, an analysis of likely spill scenarios, response
37 requirements for oil of varying properties and urban, rural, and
38 sensitive environments, and spill response equipment and
39 resources.

1 (b) The administrator shall study the use and effects of
2 dispersants, incineration, bioremediation, and any other methods
3 used to respond to a spill. The study shall periodically be updated
4 to ensure the best achievable protection from the use of those
5 methods. Based upon substantial evidence in the record, the
6 administrator may determine in individual cases that best
7 achievable protection is provided by establishing requirements
8 that provide the greatest degree of protection achievable without
9 imposing costs that significantly outweigh the incremental
10 protection that would otherwise be provided. The studies shall do
11 all of the following:

12 (1) Evaluate the effectiveness of dispersants and other chemical
13 agents in oil spill response under varying environmental conditions.

14 (2) Evaluate potential adverse impacts on the environment and
15 public health including, but not limited to, adverse toxic impacts
16 on water quality, fisheries, and wildlife with consideration to
17 bioaccumulation and synergistic impacts, and the potential for
18 human exposure, including skin contact and consumption of
19 contaminated seafood.

20 (3) Recommend appropriate uses and limitations on the use of
21 dispersants and other chemical agents to ensure they are used only
22 in situations where the administrator determines they are effective
23 and safe.

24 (c) The administrator shall evaluate the feasibility of using
25 commercial fishermen and other mariners for oil spill containment
26 and cleanup. The study shall examine the following:

27 (1) Equipment and technology needs.

28 (2) Coordination with private response personnel.

29 (3) Liability and insurance.

30 (4) Compensation.

31 (d) The studies shall be performed in conjunction with any
32 studies performed by federal, state, and international entities. The
33 administrator may enter into contracts for the studies.

34 ~~SEC. 15. Section 8670.14 of the Government Code is amended~~
35 ~~to read:~~

36 ~~8670.14. The administrator shall coordinate the oil spill~~
37 ~~prevention and response programs and facility, tank vessel, and~~
38 ~~nontank vessel safety standards of the state with federal programs~~
39 ~~as appropriate and to the maximum extent possible.~~

1 ~~SEC. 16.~~

2 *SEC. 6.* Section 8670.15 is added to the Government Code, to
3 read:

4 8670.15. (a) To the extent allowed by federal and state law
5 and to provide public transparency, the Legislature declares it is
6 the policy of the state that communities that face significant risks
7 associated with the transport or planned transport of significant
8 quantities of oil through or near those communities be notified of
9 the quantities and properties of the oil in a timely manner.

10 (b) The administrator shall obtain and make publicly available,
11 as allowed pursuant to the California Public Records Act (Chapter
12 3.5 (commencing with Section 6250) of Division 7 of Title 1) and
13 federal law, previously filed information related to the transport
14 of oil through, near, or into communities. The previously filed
15 information shall include the type and quantity of oil and its mode
16 of transport. The previously filed information shall be obtained
17 annually, at a minimum, and shall cover the immediately preceding
18 12-month period.

19 (c) For purposes of this section, “transport” includes transport
20 *or planned transport* by vessel, truck, railroad, or pipeline.

21 ~~SEC. 17.~~ Section 8670.19 of the Government Code is amended
22 to read:

23 ~~8670.19.~~ (a) ~~The administrator shall periodically conduct a~~
24 ~~comprehensive review of all oil spill contingency plans. The~~
25 ~~administrator shall do both of the following:~~

- 26 (1) ~~Segment the coast into appropriate areas as necessary.~~
- 27 (2) ~~Evaluate the oil spill contingency plans for each area to~~
28 ~~determine if deficiencies exist in equipment, personnel, training,~~
29 ~~and any other area determined to be necessary, including those~~
30 ~~response resources properly authorized for cascading into the area,~~
31 ~~to ensure the best achievable protection of state waters from oil~~
32 ~~spills.~~

33 (b) ~~If the administrator finds that deficiencies exist, the~~
34 ~~administrator shall, by the process set forth in Section 8670.31,~~
35 ~~remand any oil spill contingency plans to the originating party~~
36 ~~with recommendations for amendments necessary to ensure that~~
37 ~~the waters of the state are protected.~~

38 ~~SEC. 18.~~ Section 8670.25 of the Government Code is amended
39 to read:

1 ~~8670.25.—(a) A person who, without regard to intent or~~
2 ~~negligence, causes or permits any oil to be discharged in or on the~~
3 ~~waters of the state shall immediately contain, clean up, and remove~~
4 ~~the oil in the most effective manner that minimizes environmental~~
5 ~~damage and in accordance with the applicable contingency plans,~~
6 ~~unless ordered otherwise by the Coast Guard or the administrator.~~

7 ~~(b) If there is a spill, an owner or operator shall comply with~~
8 ~~the applicable oil spill contingency plan approved by the~~
9 ~~administrator.~~

10 ~~SEC. 19. Section 8670.25.5 of the Government Code is~~
11 ~~amended to read:~~

12 ~~8670.25.5. (a) (1) Without regard to intent or negligence, any~~
13 ~~party responsible for the discharge or threatened discharge of oil~~
14 ~~in waters of the state shall report the discharge immediately to the~~
15 ~~Office of Emergency Services pursuant to Section 25510 of the~~
16 ~~Health and Safety Code.~~

17 ~~(2) If the information initially reported pursuant to paragraph~~
18 ~~(1) was inaccurate or incomplete, or if the quantity of oil discharged~~
19 ~~has changed, any party responsible for the discharge or threatened~~
20 ~~discharge of oil in waters of the state shall report the updated~~
21 ~~information immediately to the Office of Emergency Services~~
22 ~~pursuant to paragraph (1). The report shall contain the accurate or~~
23 ~~complete information, or the revised quantity of oil discharged.~~

24 ~~(b) Immediately upon receiving notification pursuant to~~
25 ~~subdivision (a), the Office of Emergency Services shall notify the~~
26 ~~administrator, the State Lands Commission, the California Coastal~~
27 ~~Commission, the California regional water quality control board~~
28 ~~having jurisdiction over the location of the discharged oil, and the~~
29 ~~appropriate local governmental agencies in the area surrounding~~
30 ~~the discharged oil, and take the actions required by subdivision~~
31 ~~(d) of Section 8589.7. If the spill has occurred within the~~
32 ~~jurisdiction of the San Francisco Bay Conservation and~~
33 ~~Development Commission, the Office of Emergency Services shall~~
34 ~~notify that commission. Each public agency specified in this~~
35 ~~subdivision shall adopt an internal protocol over communications~~
36 ~~regarding the discharge of oil and file the internal protocol with~~
37 ~~the Office of Emergency Services.~~

38 ~~(c) The 24-hour emergency telephone number of the Office of~~
39 ~~Emergency Services shall be posted at every railroad dispatch,~~
40 ~~pipeline operator control center, marine terminal, at the area of~~

1 control of every marine facility, and on the bridge of every tankship
2 in marine waters.

3 ~~(d) Except as otherwise provided in this section and Section~~
4 ~~8589.7, a notification made pursuant to this section shall satisfy~~
5 ~~any immediate notification requirement contained in any permit~~
6 ~~issued by a permitting agency.~~

7 SEC. 20. Section 8670.26 of the Government Code is amended
8 to read:

9 8670.26. Any local or state agency responding to an oil spill
10 shall notify the Office of Emergency Services, if notification is
11 required under Section 8670.25.5, Section 13272 of the Water
12 Code, or any other notification procedure adopted in the California
13 oil spill contingency plan has not occurred.

14 SEC. 21. Section 8670.27 of the Government Code is amended
15 to read:

16 8670.27. (a) (1) All potentially responsible parties for an oil
17 spill and all of their agents and employees and all state and local
18 agencies shall carry out response and cleanup operations in
19 accordance with the applicable contingency plan, unless directed
20 otherwise by the administrator or the Coast Guard.

21 (2) Except as provided in subdivision (b), the responsible party,
22 potentially responsible parties, their agents and employees, the
23 operators of all vessels docked at a marine facility that is the source
24 of a discharge, and all state and local agencies shall carry out spill
25 response consistent with the California oil spill contingency plan
26 or other applicable federal, state, or local spill response plans, and
27 owners and operators shall carry out spill response consistent with
28 their applicable response contingency plans, unless directed
29 otherwise by the administrator or the Coast Guard.

30 (b) If a responsible party or potentially responsible party
31 reasonably, and in good faith, believes that the directions or orders
32 given by the administrator pursuant to subdivision (a) will
33 substantially endanger the public safety or the environment, the
34 party may refuse to act in compliance with the orders or directions
35 of the administrator. The responsible party or potentially
36 responsible party shall state, at the time of the refusal, the reasons
37 why the party refuses to follow the orders or directions of the
38 administrator. The responsible party or potentially responsible
39 party shall give the administrator written notice of the reasons for
40 the refusal within 48 hours of refusing to follow the orders or

1 directions of the administrator. In any civil or criminal proceeding
2 commenced pursuant to this section, the burden of proof shall be
3 on the responsible party or potentially responsible party to
4 demonstrate, by clear and convincing evidence, why the refusal
5 to follow the orders or directions of the administrator was justified
6 under the circumstances.

7 SEC. 22.— Section 8670.28 of the Government Code is amended
8 to read:

9 8670.28.— (a) The administrator, taking into consideration the
10 facility or vessel contingency plan requirements of the State Lands
11 Commission, the Office of the State Fire Marshal, the California
12 Coastal Commission, and other state and federal agencies, shall
13 adopt and implement regulations governing the adequacy of oil
14 spill contingency plans to be prepared and implemented under this
15 article. All regulations shall be developed in consultation with the
16 Oil Spill Technical Advisory Committee, and shall be consistent
17 with the California oil spill contingency plan and not in conflict
18 with the National Contingency Plan. The regulations shall provide
19 for the best achievable protection of waters and natural resources
20 of the state. The regulations shall permit the development,
21 application, and use of an oil spill contingency plan for similar
22 vessels, pipelines, terminals, and facilities within a single company
23 or organization, and across companies and organizations. The
24 regulations shall, at a minimum, ensure all of the following:

25 (1) All areas of state waters are at all times protected by
26 prevention, response, containment, and cleanup equipment and
27 operations.

28 (2) Standards set for response, containment, and cleanup
29 equipment and operations are maintained and regularly improved
30 to protect the resources of the state.

31 (3) All appropriate personnel employed by operators required
32 to have a contingency plan receive training in oil spill response
33 and cleanup equipment usage and operations.

34 (4) Each oil spill contingency plan provides for appropriate
35 financial or contractual arrangements for all necessary equipment
36 and services for the response, containment, and cleanup of a
37 reasonable worst case oil spill scenario for each area the plan
38 addresses.

39 (5) Each oil spill contingency plan demonstrates that all
40 protection measures are being taken to reduce the possibility of

1 an oil spill occurring as a result of the operation of the facility or
2 vessel. The protection measures shall include, but not be limited
3 to, response to disabled vessels and an identification of those
4 measures taken to comply with requirements of Division 7.8
5 (commencing with Section 8750) of the Public Resources Code.

6 ~~(6) Each oil spill contingency plan identifies the types of~~
7 ~~equipment that can be used, the location of the equipment, and the~~
8 ~~time taken to deliver the equipment.~~

9 ~~(7) Each facility, as determined by the administrator, conducts~~
10 ~~a hazard and operability study to identify the hazards associated~~
11 ~~with the operation of the facility, including the use of the facility~~
12 ~~by vessels, due to operating error, equipment failure, and external~~
13 ~~events. For the hazards identified in the hazard and operability~~
14 ~~studies, the facility shall conduct an offsite consequence analysis~~
15 ~~that, for the most likely hazards, assumes pessimistic water and~~
16 ~~air dispersion and other adverse environmental conditions.~~

17 ~~(8) Each oil spill contingency plan contains a list of contacts to~~
18 ~~call in the event of a drill, threatened discharge of oil, or discharge~~
19 ~~of oil.~~

20 ~~(9) Each oil spill contingency plan identifies the measures to~~
21 ~~be taken to protect the recreational and environmentally sensitive~~
22 ~~areas that would be threatened by a reasonable worst case oil spill~~
23 ~~scenario.~~

24 ~~(10) Standards for determining a reasonable worst case oil spill.~~
25 ~~However, for a nontank vessel, the reasonable worst case is a spill~~
26 ~~of the total volume of the largest fuel tank on the nontank vessel.~~

27 ~~(11) Each oil spill contingency plan specifies an agent for service~~
28 ~~of process. The agent shall be located in this state.~~

29 ~~(b) The regulations and guidelines adopted pursuant to this~~
30 ~~section shall also include provisions to provide public review and~~
31 ~~comment on submitted oil spill contingency plans.~~

32 ~~(c) The regulations adopted pursuant to this section shall~~
33 ~~specifically address the types of equipment that will be necessary,~~
34 ~~the maximum time that will be allowed for deployment, the~~
35 ~~maximum distance to cooperating response entities, the amounts~~
36 ~~of dispersant, and the maximum time required for application,~~
37 ~~should the use of dispersants be approved. Upon a determination~~
38 ~~by the administrator that booming is appropriate at the site and~~
39 ~~necessary to provide best achievable protection, the regulations~~

1 shall require that vessels engaged in lightering operations be
2 boomed prior to the commencement of operations.

3 (d) The administrator shall adopt regulations and guidelines for
4 oil spill contingency plans with regard to mobile transfer units,
5 small marine fueling facilities, and vessels carrying oil as secondary
6 cargo that acknowledge the reduced risk of damage from oil spills
7 from those units, facilities, and vessels while maintaining the best
8 achievable protection for the public health and safety and the
9 environment.

10 (e) The regulations adopted pursuant to subdivision (d) shall be
11 exempt from review by the Office of Administrative Law.
12 Subsequent amendments and changes to the regulations shall not
13 be exempt from review by the Office of Administrative Law.

14 SEC. 23. Section 8670.29 of the Government Code is amended
15 to read:

16 8670.29. (a) In accordance with the rules, regulations, and
17 policies established by the administrator pursuant to Section
18 8670.28, an owner or operator of a facility, small marine fueling
19 facility, or mobile transfer unit, or an owner or operator of a tank
20 vessel, nontank vessel, or vessel carrying oil as secondary cargo,
21 while operating in the waters of the state or where a spill could
22 impact waters of the state, shall have an oil spill contingency plan
23 that has been submitted to, and approved by, the administrator
24 pursuant to Section 8670.31. An oil spill contingency plan shall
25 ensure the undertaking of prompt and adequate response and
26 removal action in case of a spill, shall be consistent with the
27 California oil spill contingency plan, and shall not conflict with
28 the National Oil and Hazardous Substances Pollution Contingency
29 Plan (NCP), Part 300 of Title 40 of the Code of Federal
30 Regulations.

31 (b) An oil spill contingency plan shall, at a minimum, meet all
32 of the following requirements:

33 (1) Be a written document, reviewed for feasibility and
34 executability, and signed by the owner or operator, or his or her
35 designee.

36 (2) Provide for the use of an incident command system to be
37 used during a spill.

38 (3) Provide procedures for reporting oil spills to local, state,
39 and federal agencies, and include a list of contacts to call in the
40 event of a drill, threatened spill, or spill.

- 1 ~~(4) Describe the communication plans to be used during a spill,~~
2 ~~if different from those used by a recognized incident command~~
3 ~~system.~~
- 4 ~~(5) Describe the strategies for the protection of environmentally~~
5 ~~sensitive areas.~~
- 6 ~~(6) Identify at least one rated OSRO for each rating level~~
7 ~~established pursuant to Section 8670.30. Each identified rated~~
8 ~~OSRO shall be directly responsible by contract, agreement, or~~
9 ~~other approved means to provide oil spill response activities~~
10 ~~pursuant to the oil spill contingency plan. A rated OSRO may~~
11 ~~provide oil spill response activities individually, or in combination~~
12 ~~with another rated OSRO, for a particular owner or operator.~~
- 13 ~~(7) Identify a qualified individual.~~
- 14 ~~(8) Provide the name, address, and telephone and facsimile~~
15 ~~numbers for an agent for service of process, located within the~~
16 ~~state and designated to receive legal documents on behalf of the~~
17 ~~owner or operator.~~
- 18 ~~(9) Provide for training and drills on elements of the plan at~~
19 ~~least annually, with all elements of the plan subject to a drill at~~
20 ~~least once every three years.~~
- 21 ~~(e) An oil spill contingency plan for a vessel shall also include,~~
22 ~~but is not limited to, all of the following requirements:~~
- 23 ~~(1) The plan shall be submitted to the administrator at least~~
24 ~~seven days prior to the vessel entering waters of the state.~~
- 25 ~~(2) The plan shall provide evidence of compliance with the~~
26 ~~International Safety Management Code, established by the~~
27 ~~International Maritime Organization, as applicable.~~
- 28 ~~(3) If the oil spill contingency plan is for a tank vessel, the plan~~
29 ~~shall include both of the following:~~
- 30 ~~(A) The plan shall specify oil and petroleum cargo capacity.~~
- 31 ~~(B) The plan shall specify the types of oil and petroleum cargo~~
32 ~~carried.~~
- 33 ~~(4) If the oil spill contingency plan is for a nontank vessel, the~~
34 ~~plan shall include both of the following:~~
- 35 ~~(A) The plan shall specify the type and total amount of fuel~~
36 ~~carried.~~
- 37 ~~(B) The plan shall specify the capacity of the largest fuel tank.~~
- 38 ~~(d) An oil spill contingency plan for a facility shall also include,~~
39 ~~but is not limited to, all of the following provisions, as appropriate:~~
- 40 ~~(1) Provisions for site security and control.~~

1 ~~(2) Provisions for emergency medical treatment and first aid.~~

2 ~~(3) Provisions for safety training, as required by state and federal~~
3 ~~safety laws for all personnel likely to be engaged in oil spill~~
4 ~~response.~~

5 ~~(4) Provisions detailing site layout and locations of~~
6 ~~environmentally sensitive areas requiring special protection.~~

7 ~~(5) Provisions for vessels that are in the operational control of~~
8 ~~the facility for loading and unloading.~~

9 ~~(e) Unless preempted by federal law or regulations, an oil spill~~
10 ~~contingency plan for a railroad also shall include, but is not limited~~
11 ~~to, all of the following:~~

12 ~~(1) A list of the types of train cars that may make up the consist.~~

13 ~~(2) A list of the types of oil and petroleum products that may~~
14 ~~be transported.~~

15 ~~(3) A map of track routes and facilities.~~

16 ~~(4) A list, description, and map of any prestaged spill response~~
17 ~~equipment and personnel for deployment of the equipment.~~

18 ~~(f) The oil spill contingency plan shall be available to response~~
19 ~~personnel and to relevant state and federal agencies for inspection~~
20 ~~and review.~~

21 ~~(g) The oil spill contingency plan shall be reviewed periodically~~
22 ~~and updated as necessary. All updates shall be submitted to the~~
23 ~~administrator pursuant to this article.~~

24 ~~(h) In addition to the regulations adopted pursuant to Section~~
25 ~~8670.28, the administrator shall adopt regulations and guidelines~~
26 ~~to implement this section. The regulations and guidelines shall~~
27 ~~provide for the best achievable protection of waters and natural~~
28 ~~resources of the state. The administrator may establish additional~~
29 ~~oil spill contingency plan requirements, including, but not limited~~
30 ~~to, requirements based on the different geographic regions of the~~
31 ~~state. All regulations and guidelines shall be developed in~~
32 ~~consultation with the Oil Spill Technical Advisory Committee.~~

33 ~~(i) Notwithstanding subdivision (a) and paragraph (6) of~~
34 ~~subdivision (b), a vessel or facility operating where a spill could~~
35 ~~impact state waters that are not tidally influenced does not have~~
36 ~~to identify a rated OSRO in the contingency plan until January 1,~~
37 ~~2016.~~

38 ~~SEC. 24.~~

39 ~~SEC. 7.~~ Section 8670.29.5 is added to the Government Code,
40 to read:

1 8670.29.5. (a) The administrator shall obtain annually, at a
2 minimum, information on the modes of transportation of oil into
3 and within the state and the properties of the oil in order to evaluate
4 and identify any necessary changes in oil spill response and
5 preparedness programs to meet the goals of this chapter.

6 (b) The administrator shall provide this information to the Oil
7 Spill Technical Advisory Committee, established pursuant to
8 Section 8670.54.

9 ~~SEC. 25. Section 8670.30.5 of the Government Code is~~
10 ~~amended to read:~~

11 ~~8670.30.5. (a) The administrator may review each oil spill~~
12 ~~contingency plan that has been approved pursuant to Section~~
13 ~~8670.29 to determine whether it complies with Sections 8670.28~~
14 ~~and 8670.29.~~

15 ~~(b) If the administrator finds the approved oil spill contingency~~
16 ~~plan is deficient, the plan shall be returned to the operator with~~
17 ~~written reasons why the approved plan was found inadequate and,~~
18 ~~if practicable, suggested modifications or alternatives. The operator~~
19 ~~shall submit a new or modified plan within 30 days that responds~~
20 ~~to the deficiencies identified by the administrator.~~

21 ~~SEC. 26. Section 8670.31 of the Government Code is amended~~
22 ~~to read:~~

23 ~~8670.31. (a) Each oil spill contingency plan required under~~
24 ~~this article shall be submitted to the administrator for review and~~
25 ~~approval.~~

26 ~~(b) The administrator shall review each submitted contingency~~
27 ~~plan to determine whether it complies with the administrator's~~
28 ~~rules, policies, and regulations adopted pursuant to Section 8670.28~~
29 ~~and 8670.29. The administrator may issue a preliminary approval~~
30 ~~pending final approval or disapproval.~~

31 ~~(c) Each contingency plan submitted shall be approved or~~
32 ~~disapproved within 30 days after receipt by the administrator. The~~
33 ~~administrator may approve or disapprove portions of a plan. A~~
34 ~~plan is not deemed approved until all portions are approved~~
35 ~~pursuant to this section. The disapproved portion shall be subject~~
36 ~~to the procedures contained in subdivision (d).~~

37 ~~(d) If the administrator finds the submitted contingency plan is~~
38 ~~inadequate under the rules, policies, and regulations of the~~
39 ~~administrator, the plan shall be returned to the submitter with~~
40 ~~written reasons why the plan was found inadequate and, if~~

1 practicable, suggested modifications or alternatives, if appropriate.
2 The submitter shall submit a new or modified plan within 30 days
3 after the earlier plan was returned, responding to the findings and
4 incorporating any suggested modifications. The resubmittal shall
5 be treated as a new submittal and processed according to the
6 provisions of this section, except that the resubmitted plan shall
7 be deemed approved unless the administrator acts pursuant to
8 subdivision (e):

9 (e) The administrator may make inspections and require drills
10 of any oil spill contingency plan that is submitted.

11 (f) After the plan has been approved, it shall be resubmitted
12 every five years thereafter. The administrator may require earlier
13 or more frequent resubmission, if warranted. Circumstances that
14 would require an earlier resubmission include, but are not limited
15 to, changes in regulations, new oil spill response technologies,
16 deficiencies identified in the evaluation conducted pursuant to
17 Section 8670.19, or a need for a different oil spill response because
18 of increased need to protect endangered species habitat. The
19 administrator may deny approval of the resubmitted plan if it is
20 no longer considered adequate according to the adopted rules,
21 regulations, and policies of the administrator at the time of
22 resubmission.

23 (g) Each owner or operator of a tank vessel, nontank vessel
24 carrying oil as a secondary cargo, or facility who is required to
25 file an oil spill response plan or update pursuant to provisions of
26 federal law regulating oil spill response plans shall submit, for
27 informational purposes only and upon request of the administrator,
28 a copy of that plan or update to the administrator at the time that
29 it is approved by the relevant federal agency.

30 SEC. 27. Section 8670.32 of the Government Code is amended
31 to read:

32 8670.32. (a) To reduce the risk of an oil spill as a result of
33 fuel, cargo, and lube oil transfers, the administrator shall develop
34 and implement a screening mechanism and a comprehensive
35 risk-based monitoring program for inspecting the bunkering and
36 lightering operations of vessels at anchor and alongside a dock.
37 This program shall identify those bunkering and lightering
38 operations that pose the highest risk of a pollution incident.

39 (b) The administrator shall ensure that all bunkering and
40 lightering operations that, pursuant to subdivision (a), pose the

1 highest risk of a pollution incident are routinely monitored and
2 inspected. The administrator shall coordinate the monitoring and
3 inspection program with the Coast Guard.

4 (e) The administrator shall establish regulations to provide for
5 the best achievable protection during bunkering and lightering
6 operations.

7 (d) This section shall remain in effect only until January 1, 2015,
8 and as of that date is repealed, unless a later enacted statute, that
9 is enacted before January 1, 2015, deletes or extends that date.

10 SEC. 28.

11 SEC. 8. Section 8670.32.5 is added to the Government Code,
12 to read:

13 8670.32.5. The administrator, in consultation with the
14 appropriate local, state, and federal regulators, shall conduct a
15 comprehensive risk assessment of nonvessel modes of
16 transportation of oil and shall identify those operations that pose
17 the highest risk of a pollution incident in state waters. The
18 assessment shall include a consideration of the likely range in
19 properties of the oil.

20 SEC. 29. Section 8670.33 of the Government Code is amended
21 to read:

22 8670.33. (a) If the operator of a tank ship or tank barge for
23 which a contingency plan has not been approved desires to have
24 the tank ship or tank barge enter waters of the state, the
25 administrator may give approval by telephone or facsimile machine
26 for the entry of the tank ship or tank barge into waters of the state
27 under an approved contingency plan applicable to a terminal or
28 tank ship, if all of the following are met:

29 (1) The terminal or tank ship is the destination of the tank ship
30 or tank barge.

31 (2) The operator of the terminal or the tank ship provides the
32 administrator advance written assurance that the operator assumes
33 all responsibility for the operations of the tank ship or tank barge
34 while it is in waters of the state traveling to or from the terminal.
35 The assurance may be delivered by hand or by mail or may be sent
36 by facsimile machine, followed by delivery of the original.

37 (3) The approved terminal or tank ship contingency plan
38 includes all conditions the administrator requires for the operations
39 of tank ship or tank barges traveling to and from the terminal.

1 ~~(4) The tank ship or tank barge and its operations meet all~~
2 ~~requirements of the contingency plan for the tank ship or terminal~~
3 ~~that is the destination of the tank ship or tank barge.~~

4 ~~(5) The tank ship or tank barge without an approved contingency~~
5 ~~plan has not entered waters of the state more than once in the~~
6 ~~12-month period preceding the request made under this section.~~

7 ~~(b) At all times that a tank ship or tank barge is in waters of the~~
8 ~~state pursuant to subdivision (a), its operators and all their agents~~
9 ~~and employees shall operate the vessel in accordance with the~~
10 ~~applicable operations manual or, if there is an oil spill, in~~
11 ~~accordance with the directions of the administrator and the~~
12 ~~applicable contingency plan.~~

13 ~~SEC. 30. Section 8670.34 of the Government Code is amended~~
14 ~~to read:~~

15 ~~8670.34. This article shall not apply to any tank vessel, nontank~~
16 ~~vessel, or vessel carrying oil as a secondary cargo that enters waters~~
17 ~~of the state because of imminent danger to the lives of~~
18 ~~crewmembers or if entering waters of the state will substantially~~
19 ~~aid in preventing an oil spill or other harm to public safety or the~~
20 ~~environment, if the operators of the tank vessel, nontank vessel,~~
21 ~~or vessel carrying oil as a secondary cargo comply with all of the~~
22 ~~following:~~

23 ~~(a) The operators or crew of the tank vessel, nontank vessel, or~~
24 ~~vessel carrying oil as a secondary cargo comply at all times with~~
25 ~~all orders and directions given by the administrator, or his or her~~
26 ~~designee, while the tank vessel, nontank vessel, or vessel carrying~~
27 ~~oil as a secondary cargo is in waters of the state, unless the orders~~
28 ~~or directions are contradicted by orders or directions of the Coast~~
29 ~~Guard.~~

30 ~~(b) Except for fuel, oil may be transferred to or from the tank~~
31 ~~vessel, nontank vessel, or vessel carrying oil as a secondary cargo~~
32 ~~while it is in waters of the state only if permission is obtained for~~
33 ~~the transfer of oil and one of the following conditions is met:~~

34 ~~(1) The transfer is necessary for the safety of the crew.~~

35 ~~(2) The transfer is necessary to prevent harm to public safety~~
36 ~~or the environment.~~

37 ~~(3) An oil spill contingency plan is approved or made applicable~~
38 ~~to the tank vessel, nontank vessel, or vessel carrying oil as a~~
39 ~~secondary cargo, under subdivision (c).~~

1 ~~(e) The tank vessel, nontank vessel, or vessel carrying oil as a~~
2 ~~secondary cargo shall leave the waters of the state as soon as it~~
3 ~~may do so without imminent risk of harm to the crew, public safety,~~
4 ~~or the environment, unless an oil spill contingency plan is approved~~
5 ~~or made applicable to it under this article.~~

6 ~~SEC. 31. Section 8670.35 of the Government Code is amended~~
7 ~~to read:~~

8 ~~8670.35.—(a) The administrator, taking into consideration the~~
9 ~~California oil spill contingency plan, shall promulgate regulations~~
10 ~~regarding the adequacy of oil spill elements of area plans required~~
11 ~~pursuant to Section 25503 of the Health and Safety Code. In~~
12 ~~developing the regulations, the administrator shall consult with~~
13 ~~the Oil Spill Technical Advisory Committee.~~

14 ~~(b) The administrator may offer, to a unified program agency~~
15 ~~with jurisdiction over or directly adjacent to waters of the state, a~~
16 ~~grant to complete, update, or revise an oil spill element of the area~~
17 ~~plan.~~

18 ~~(c) Each oil spill element established under this section shall~~
19 ~~include provisions for training fire and police personnel in oil spill~~
20 ~~response and cleanup equipment use and operations.~~

21 ~~(d) Each oil spill element prepared under this section shall be~~
22 ~~consistent with the local government's local coastal program as~~
23 ~~certified under Section 30500 of the Public Resources Code, the~~
24 ~~California oil spill contingency plan, and the National Contingency~~
25 ~~Plan.~~

26 ~~(e) If a grant is awarded, the administrator shall review and~~
27 ~~approve each oil spill element established pursuant to this section.~~
28 ~~If, upon review, the administrator determines that the oil spill~~
29 ~~element is inadequate, the administrator shall return it to the agency~~
30 ~~that prepared it, specifying the nature and extent of the~~
31 ~~inadequacies, and, if practicable, suggesting modifications. The~~
32 ~~unified program agency shall submit a new or modified element~~
33 ~~within 90 days after the element was returned, responding to the~~
34 ~~findings and incorporating any suggested modifications.~~

35 ~~(f) The administrator shall review the preparedness of unified~~
36 ~~program agencies to determine whether a program of grants for~~
37 ~~completing oil spill elements is desirable and should be continued.~~
38 ~~If the administrator determines that local government preparedness~~
39 ~~should be improved, the administrator shall request the Legislature~~

1 to appropriate funds from the Oil Spill Prevention and
2 Administration Fund for the purposes of this section.

3 ~~SEC. 32.~~

4 *SEC. 9.* Section 8670.36 of the Government Code is amended
5 to read:

6 8670.36. The administrator shall, within five working days
7 after receipt of a contingency plan prepared pursuant to Section
8 8670.28 or 8670.35, post a notice that the plan is available for
9 review. The administrator shall send a copy of the plan within two
10 working days after receiving a request from the Oil Spill Technical
11 Advisory Committee. The State Lands Commission and the
12 California Coastal Commission shall review the plans for facilities
13 or local governments within the coastal zone. The San Francisco
14 Bay Conservation and Development Commission shall review the
15 plans for facilities or local governments within the area described
16 in Sections 66610 and 29101 of the Public Resources Code. *The*
17 *California Environmental Protection Agency and the Office of*
18 *Emergency Services shall review the plans for facilities or local*
19 *governments located outside of the coastal zone.* Any state agency
20 or committee that comments shall submit its comments to the
21 administrator within 15 days of receipt of the plan. The
22 administrator shall consider all comments.

23 ~~SEC. 33.~~ Section 8670.37 of the Government Code is amended
24 to read:

25 ~~8670.37.~~ (a) The administrator, with the assistance of the State
26 Lands Commission, the California Coastal Commission, the
27 Executive Director of the San Francisco Bay Conservation and
28 Development Commission, or other appropriate agency, shall carry
29 out studies with regard to improvements to contingency planning
30 and oil spill response equipment and operations.

31 (b) ~~To the greatest extent possible, these studies shall be~~
32 ~~coordinated with studies being done by the federal government,~~
33 ~~and other appropriate state and international entities, and~~
34 ~~duplication with the efforts of other entities shall be minimized.~~

35 (c) ~~The administrator, the State Lands Commission, the~~
36 ~~California Coastal Commission, the Executive Director of the San~~
37 ~~Francisco Bay Conservation and Development Commission, or~~
38 ~~other appropriate agency may be reimbursed for all costs incurred~~
39 ~~in carrying out the studies under this section from the Oil Spill~~
40 ~~Prevention and Administration Fund.~~

1 ~~SEC. 34.~~ Section 8670.37.5 of the Government Code is amended
2 to read:

3 ~~8670.37.5. (a) The administrator shall establish a network of~~
4 ~~rescue and rehabilitation stations for wildlife injured by oil spills,~~
5 ~~including sea otters and other marine mammals. In addition to~~
6 ~~rehabilitative care, the primary focus of the Oiled Wildlife Care~~
7 ~~Network shall include proactive oiled wildlife search and collection~~
8 ~~rescue efforts. These facilities shall be established and maintained~~
9 ~~in a state of preparedness to provide the best achievable treatment~~
10 ~~for wildlife, mammals, and birds affected by an oil spill in waters~~
11 ~~of the state. The administrator shall consider all feasible~~
12 ~~management alternatives for operation of the network.~~

13 ~~(b) (1) The first rescue and rehabilitation station established~~
14 ~~pursuant to this section shall be located within the sea otter range~~
15 ~~on the central coast. The administrator initially shall establish~~
16 ~~regional oiled wildlife rescue and rehabilitation facilities in the~~
17 ~~Los Angeles Harbor area, the San Francisco Bay area, the San~~
18 ~~Diego area, the Monterey Bay area, the Humboldt County area,~~
19 ~~and the Santa Barbara area. The administrator also may establish~~
20 ~~facilities in other areas of the state as the administrator determines~~
21 ~~to be necessary.~~

22 ~~(2) One or more of the oiled wildlife rescue and rehabilitation~~
23 ~~stations shall be open to the public for educational purposes and~~
24 ~~shall be available for wildlife health research. Wherever possible~~
25 ~~in the establishment of these facilities, the administrator shall~~
26 ~~improve existing authorized rehabilitation facilities and may~~
27 ~~expand or take advantage of existing educational or scientific~~
28 ~~programs and institutions for oiled wildlife rehabilitation purposes.~~
29 ~~Expenditures shall be reviewed by the agencies and organizations~~
30 ~~specified in subdivision (c).~~

31 ~~(c) The administrator shall consult with the United States Fish~~
32 ~~and Wildlife Service, the National Marine Fisheries Service, the~~
33 ~~California Coastal Commission, the Executive Director of the San~~
34 ~~Francisco Bay Conservation and Development Commission, the~~
35 ~~Marine Mammal Center, and International Bird Rescue in the~~
36 ~~design, planning, construction, and operation of the rescue and~~
37 ~~rehabilitation stations. All proposals for the rescue and~~
38 ~~rehabilitation stations shall be presented before a public hearing~~
39 ~~prior to the construction and operation of any rehabilitation station,~~
40 ~~and, upon completion of the coastal protection element of the~~

1 California oil spill contingency plan, shall be consistent with the
2 coastal protection element.

3 ~~(d) The administrator may enter into agreements with nonprofit~~
4 ~~organizations to establish and equip wildlife rescue and~~
5 ~~rehabilitation stations and to ensure that they are operated in a~~
6 ~~professional manner in keeping with the pertinent guidance~~
7 ~~documents issued by the administrator. The implementation of the~~
8 ~~agreement shall not constitute a California public works project.~~
9 ~~The agreement shall be deemed a contract for wildlife rehabilitation~~
10 ~~as authorized by Section 8670.61.5.~~

11 ~~(e) In the event of a spill, the responsible party may request that~~
12 ~~the administrator perform the rescue and rehabilitation of oiled~~
13 ~~wildlife required of the responsible party pursuant to this chapter~~
14 ~~if the responsible party and the administrator enter into an~~
15 ~~agreement for the reimbursement of the administrator's costs~~
16 ~~incurred in taking the requested action. If the administrator~~
17 ~~performs the rescue and rehabilitation of oiled wildlife, the~~
18 ~~administrator shall primarily utilize the network of rescue and~~
19 ~~rehabilitation stations established pursuant to subdivision (a);~~
20 ~~unless more immediate care is required. Any of those activities~~
21 ~~conducted pursuant to this section or Section 8670.56.5 or~~
22 ~~8670.61.5 shall be performed under the direction of the~~
23 ~~administrator. This subdivision does not remove the responsible~~
24 ~~party from liability for the costs of, or the responsibility for, the~~
25 ~~rescue and rehabilitation of oiled wildlife, as established by this~~
26 ~~chapter. This subdivision does not prohibit an owner or operator~~
27 ~~from retaining, in a contingency plan prepared pursuant to this~~
28 ~~article, wildlife rescue and rehabilitation services different from~~
29 ~~the rescue and rehabilitation stations established pursuant to this~~
30 ~~section.~~

31 ~~(f) (1) The administrator shall appoint a rescue and~~
32 ~~rehabilitation advisory board to advise the administrator regarding~~
33 ~~operation of the network of rescue and rehabilitation stations~~
34 ~~established pursuant to subdivision (a), including the economic~~
35 ~~operation and maintenance of the network. For the purpose of~~
36 ~~assisting the administrator in determining what constitutes the best~~
37 ~~achievable treatment for oiled wildlife, the advisory board shall~~
38 ~~provide recommendations to the administrator on the care achieved~~
39 ~~by current standard treatment methods, new or alternative treatment~~
40 ~~methods, the costs of treatment methods, and any other information~~

1 that the advisory board believes that the administrator might find
2 useful in making that determination. The administrator shall consult
3 with the advisory board in preparing the administrator's submission
4 to the Legislature pursuant to subdivision (a) of Section 8670.40.5.
5 The administrator shall present the recommendations of the
6 advisory board to the Oil Spill Technical Advisory Committee
7 created pursuant to Article 8 (commencing with Section 8670.54);
8 upon the request of the committee.

9 (2) The advisory board shall consist of a balance between
10 representatives of the oil industry, wildlife rehabilitation
11 organizations, and academia. One academic representative shall
12 be from a veterinary school within this state. The United States
13 Fish and Wildlife Service and the National Marine Fisheries
14 Service shall be requested to participate as ex officio members.

15 (3) (A) The Legislature hereby finds and declares that since
16 the administrator may rely on the expertise provided by the
17 volunteer members of the advisory board and may be guided by
18 their recommendations in making decisions that relate to the
19 operation of the network of rescue and rehabilitation stations, those
20 members should be entitled to the same immunity from liability
21 that is provided other public employees.

22 (B) Members of the advisory board, while performing functions
23 within the scope of advisory board duties, shall be entitled to the
24 same rights and immunities granted public employees by Article
25 3 (commencing with Section 820) of Chapter 1 of Part 2 of
26 Division 3.6 of Title 1. Those rights and immunities are deemed
27 to have attached, and shall attach, as of the date of appointment
28 of the member to the advisory board.

29 (g) The administrator shall ensure the state's ability to prevent
30 the contamination of wildlife and to identify, collect, rescue, and
31 treat oiled wildlife through all of the following:

32 (1) Providing for the recruitment and training of an adequate
33 network of wildlife specialists and volunteers from Oiled Wildlife
34 Care Network participant organizations who can be called into
35 immediate action in the event of an oil spill to assist in the field
36 with collection of live oiled wildlife. The training shall include a
37 process for certification of trained volunteers and renewal of
38 certifications. The initial wildlife rescue training shall include field
39 experience in species identification and appropriate field collection
40 techniques for species at risk in different spills. In addition to

1 training in wildlife rescue, the administrator shall provide for
2 appropriate hazardous materials training for new volunteers and
3 contract personnel, with refresher courses offered as necessary to
4 allow for continual readiness of search and collection teams.
5 Moneys in the Oil Spill Prevention and Administration Fund shall
6 not be used to reimburse volunteers for time or travel associated
7 with required training.

8 (2) Developing and implementing a plan for the provision of
9 emergency equipment for wildlife rescue in strategic locations to
10 facilitate ready deployment in the case of an oil spill. The
11 administrator shall ensure that the equipment identified as
12 necessary in his or her wildlife response plan is available and
13 deployed in a timely manner to assist in providing the best
14 achievable protection and collection efforts.

15 (3) Developing the capacity of the Oiled Wildlife Care Network
16 to recruit and train an adequate field team for collection of live
17 oiled wildlife, as specified in paragraph (1), by providing staffing
18 for field operations, coordination, and volunteer outreach for the
19 Oiled Wildlife Care Network. The duties of the field operations
20 and volunteer outreach staff shall include recruitment and
21 coordination of additional participation in the Oiled Wildlife Care
22 Network by other existing organizations with experience and
23 expertise in wildlife rescue and handling, including scientific
24 organizations, educational institutions, public agencies, and
25 nonprofit organizations dedicated to wildlife conservation, and
26 recruitment, training, and supervision of volunteers from Oiled
27 Wildlife Care Network participating organizations.

28 (4) Ensuring that qualified persons with experience and expertise
29 in wildlife rescue are assigned to oversee and supervise wildlife
30 recovery search and collection efforts, as specified in the
31 administrator's wildlife response plan. The administrator shall
32 provide for and ensure that all persons involved in field collection
33 of oiled wildlife receive training in search and capture techniques
34 and hazardous materials certification, as appropriate.

35 SEC. 35. Section 8670.37.51 of the Government Code is
36 amended to read:

37 8670.37.51. (a) A tank vessel or vessel carrying oil as a
38 secondary cargo shall not be used to transport oil across waters of
39 the state unless the owner or operator has applied for and obtained
40 a certificate of financial responsibility issued by the administrator

1 for that vessel or for the owner of all of the oil contained in and
2 to be transferred to or from that vessel.

3 ~~(b) An operator of a marine terminal within the state shall not~~
4 ~~transfer oil to or from a tank vessel or vessel carrying oil as a~~
5 ~~secondary cargo unless the operator of the marine terminal has~~
6 ~~received a copy of a certificate of financial responsibility issued~~
7 ~~by the administrator for the operator of that vessel or for all of the~~
8 ~~oil contained in and to be transferred to or from that vessel.~~

9 ~~(c) An operator of a marine terminal within the state shall not~~
10 ~~transfer oil to or from any vessel that is or is intended to be used~~
11 ~~for transporting oil as cargo to or from a second vessel unless the~~
12 ~~operator of the marine terminal has first received a copy of a~~
13 ~~certificate of financial responsibility issued by the administrator~~
14 ~~for the person responsible for both the first and second vessels or~~
15 ~~all of the oil contained in both vessels, as well as all the oil to be~~
16 ~~transferred to or from both vessels.~~

17 ~~(d) An owner or operator of a facility where a spill could impact~~
18 ~~waters of the state shall apply for and obtain a certificate of~~
19 ~~financial responsibility issued by the administrator for the facility~~
20 ~~or the oil to be handled, stored, or transported by the facility.~~

21 ~~(e) Pursuant to Section 8670.37.58, nontank vessels shall obtain~~
22 ~~a certificate of financial responsibility.~~

23 ~~SEC. 36.—Section 8670.37.52 of the Government Code is~~
24 ~~amended to read:~~

25 ~~8670.37.52.—The certificate of financial responsibility shall be~~
26 ~~conclusive evidence that the person or entity holding the certificate~~
27 ~~is the party responsible for the specified vessel, facility, or oil for~~
28 ~~purposes of determining liability pursuant to this chapter.~~

29 ~~SEC. 37.—Section 8670.37.53 of the Government Code is~~
30 ~~amended to read:~~

31 ~~8670.37.53.—(a) To receive a certificate of financial~~
32 ~~responsibility for a tank vessel or for all of the oil contained within~~
33 ~~that vessel, the applicant shall demonstrate to the satisfaction of~~
34 ~~the administrator the financial ability to pay at least one billion~~
35 ~~dollars (\$1,000,000,000) for any damages that may arise during~~
36 ~~the term of the certificate.~~

37 ~~(b) The administrator may establish a lower standard of financial~~
38 ~~responsibility for small tank barges, vessels carrying oil as a~~
39 ~~secondary cargo, and small marine fueling facilities. The standard~~
40 ~~shall be based on the quantity of oil that can be carried or stored~~

1 and the risk of spill into waters of the state. The administrator shall
2 not set a standard that is less than the expected costs from a
3 reasonable worst case oil spill into waters of the state.

4 (e) (1) To receive a certificate of financial responsibility for a
5 facility, the applicant shall demonstrate to the satisfaction of the
6 administrator the financial ability to pay for any damages that
7 might arise during a reasonable worst case oil spill into waters of
8 the state that results from the operations of the facility. The
9 administrator shall consider criteria including, but not necessarily
10 limited to, the amount of oil that could be spilled into waters of
11 the state from the facility, the cost of cleaning up spilled oil, the
12 frequency of operations at the facility, and the damages that could
13 result from a spill.

14 (2) The administrator shall adopt regulations to implement this
15 section.

16 SEC. 38. Section 8670.37.55 of the Government Code is
17 amended to read:

18 8670.37.55. (a) An owner or operator of more than one tank
19 vessel, vessel carrying oil as a secondary cargo, nontank vessel,
20 or facility shall only be required to obtain one certificate of
21 financial responsibility for all of those vessels and facilities owned
22 or operated.

23 (b) If a person holds a certificate for more than one tank vessel,
24 vessel carrying oil as a secondary cargo, nontank vessel, or facility
25 and a spill or spills occurs from one or more of those vessels or
26 facilities for which the owner or operator may be liable for damages
27 in an amount exceeding 5 percent of the financial resources
28 reflected by the certificate, as determined by the administrator, the
29 certificate shall immediately be considered inapplicable to any
30 vessel or facility not associated with the spill. In that event, the
31 owner or operator shall demonstrate to the satisfaction of the
32 administrator the amount of financial ability required pursuant to
33 this article, as well as the financial ability to pay all damages that
34 arise or have arisen from the spill or spills that have occurred.

35 SEC. 39. Section 8670.37.58 of the Government Code is
36 amended to read:

37 8670.37.58. (a) A nontank vessel shall not enter waters of the
38 state unless the nontank vessel owner or operator has provided to
39 the administrator evidence of financial responsibility that
40 demonstrates, to the administrator's satisfaction, the ability to pay

1 at least three hundred million dollars (\$300,000,000) to cover
2 damages caused by a spill, and the owner or operator of the nontank
3 vessel has obtained a certificate of financial responsibility from
4 the administrator for the nontank vessel.

5 (b) Notwithstanding subdivision (a), the administrator may
6 establish a lower standard of financial responsibility for a nontank
7 vessel that has a carrying capacity of 6,500 barrels of oil or less,
8 or for a nontank vessel that is owned and operated by California
9 or a federal agency and has a carrying capacity of 7,500 barrels of
10 oil or less. The standard shall be based upon the quantity of oil
11 that can be carried by the nontank vessel and the risk of an oil spill
12 into waters of the state. The administrator shall not set a standard
13 that is less than the expected cleanup costs and damages from an
14 oil spill into waters of the state.

15 (e) The administrator may adopt regulations to implement this
16 section.

17 ~~SEC. 40.~~

18 *SEC. 10.* Section 8670.40 of the Government Code is amended
19 to read:

20 8670.40. (a) The State Board of Equalization shall collect a
21 fee in an amount annually determined by the administrator to be
22 sufficient to pay the reasonable regulatory costs to carry out the
23 purposes set forth in subdivision (e), and a reasonable reserve for
24 contingencies. The oil spill prevention and administration fee shall
25 be based on each barrel of crude oil or petroleum products, as
26 described in subdivision (b).

27 (b) (1) The oil spill prevention and administration fee shall be
28 imposed upon a person owning crude oil at the time that the crude
29 oil is received at a marine terminal, by any mode of delivery that
30 passed over, across, under, or through waters of the state, from
31 within or outside the state, and upon a person who owns petroleum
32 products at the time that those petroleum products are received at
33 a marine terminal, by any mode of delivery that passed over, across,
34 under, or through waters of the state, from outside this state. The
35 fee shall be collected by the marine terminal operator from the
36 owner of the crude oil or petroleum products for each barrel of
37 crude oil or petroleum products received.

38 (2) The oil spill prevention and administration fee shall be
39 imposed upon a person owning crude oil at the time the crude oil
40 is received at a refinery within the state by any mode of delivery

1 that passed over, across, under, or through waters of the state,
2 whether from within or outside the state. The refinery shall collect
3 the fee from the owner of the crude oil for each barrel of crude oil
4 or petroleum products received.

5 (3) The fees shall be remitted to the State Board of Equalization
6 by the owner of the crude oil or petroleum products, the refinery
7 operator, or the marine terminal operator on the 25th day of the
8 month based upon the number of barrels of crude oil or petroleum
9 products received at a refinery or marine terminal during the
10 preceding month. A fee shall not be imposed pursuant to this
11 section with respect to crude oil or petroleum products if the person
12 who would be liable for that fee, or responsible for its collection,
13 establishes that the fee has already been collected by a refinery or
14 marine terminal operator registered under this chapter or paid to
15 the State Board of Equalization with respect to the crude oil or
16 petroleum product.

17 (4) The oil spill prevention and administration fee shall not be
18 collected by a marine terminal operator or refinery operator or
19 imposed on the owner of crude oil or petroleum products if the fee
20 has been previously collected or paid on the crude oil or petroleum
21 products at another marine terminal or refinery. It shall be the
22 obligation of the marine terminal operator, refinery operator, or
23 owner of crude oil or petroleum products to show that the fee has
24 already been paid on the same crude oil or petroleum products.

25 (5) An owner of crude oil or petroleum products is liable for
26 the fee until it has been paid to the State Board of Equalization,
27 except that payment to a refinery operator or marine terminal
28 operator registered under this chapter is sufficient to relieve the
29 owner from further liability for the fee.

30 (6) On or before January 20, the administrator shall annually
31 prepare a plan that projects revenues and expenses over three fiscal
32 years, including the current year. Based on the plan, the
33 administrator shall set the fee so that projected revenues, including
34 any interest, are equivalent to expenses as reflected in the current
35 Budget Act and in the proposed budget submitted by the Governor.
36 In setting the fee, the administrator may allow for a surplus if the
37 administrator finds that revenues will be exhausted during the
38 period covered by the plan or that the surplus is necessary to cover
39 possible contingencies. The administrator shall notify the State
40 Board of Equalization of the adjusted fee rate, which shall be

1 rounded to no more than four decimal places, to be effective the
2 first day of the month beginning not less than 30 days from the
3 date of the notification.

4 (c) The moneys collected pursuant to subdivision (a) shall be
5 deposited into the fund.

6 (d) The State Board of Equalization shall collect the fee and
7 adopt regulations for implementing the fee collection program.

8 (e) The fee described in this section shall be collected solely
9 for all of the following purposes:

10 (1) To implement oil spill prevention programs through rules,
11 regulations, leasing policies, guidelines, and inspections and to
12 implement research into prevention and control technology.

13 (2) To carry out studies that may lead to improved oil spill
14 prevention and response.

15 (3) To finance environmental and economic studies relating to
16 the effects of oil spills.

17 (4) To implement, install, and maintain emergency programs,
18 equipment, and facilities to respond to, contain, and clean up oil
19 spills and to ensure that those operations will be carried out as
20 intended.

21 (5) To reimburse the State Board of Equalization for its
22 reasonable costs incurred to implement this chapter and to carry
23 out Part 24 (commencing with Section 46001) of Division 2 of the
24 Revenue and Taxation Code.

25 (6) To fund the Oiled Wildlife Care Network pursuant to Section
26 8670.40.5.

27 (f) The moneys deposited in the fund shall not be used for
28 responding to a spill.

29 (g) The moneys deposited in the fund shall not be used to
30 provide a loan to any other fund.

31 (h) Every person who operates a refinery, a marine terminal in
32 waters of the state, or a pipeline shall register with the State Board
33 of Equalization, pursuant to Section 46101 of the Revenue and
34 Taxation Code.

35 ~~SEC. 41. Section 8670.40.5 is added to the Government Code,~~
36 ~~to read:~~

37 ~~8670.40.5. (a) For each fiscal year, consistent with this article,~~
38 ~~the administrator shall submit, as a proposed appropriation in the~~
39 ~~Governor's Budget, an amount up to two million five hundred~~
40 ~~thousand dollars (\$2,500,000) for the purpose of equipping,~~

1 operating, and maintaining the network of oiled wildlife rescue
2 and rehabilitation stations and proactive oiled wildlife search and
3 collection rescue efforts established pursuant to Section 8670.37.5
4 and for the support of technology development and research related
5 to oiled wildlife care.

6 (b) ~~The administrator shall report to the Legislature, upon~~
7 ~~request, on the progress and effectiveness of the network of oiled~~
8 ~~wildlife rescue and rehabilitation stations established pursuant to~~
9 ~~Section 8670.37.5 and the adequacy of the Oil Spill Prevention~~
10 ~~and Administration Fund to meet the purposes for which the~~
11 ~~network was established.~~

12 (c) ~~At the administrator's request, the funds made available~~
13 ~~pursuant to this section may be directly appropriated to a suitable~~
14 ~~program for wildlife health and rehabilitation within a school of~~
15 ~~veterinary medicine within this state, if an agreement exists,~~
16 ~~consistent with this chapter, between the administrator and an~~
17 ~~appropriate representative of the program for carrying out that~~
18 ~~purpose. The administrator shall attempt to have an agreement in~~
19 ~~place at all times. The agreement shall ensure that the training of,~~
20 ~~and the care provided by, the program staff are at levels that are~~
21 ~~consistent with those standards generally accepted within the~~
22 ~~veterinary profession.~~

23 (d) ~~The funds made available pursuant to this section shall not~~
24 ~~be considered an offset to any other state funds appropriated to~~
25 ~~the program, the program's associated school of veterinary~~
26 ~~medicine, or the program's associated college or university. The~~
27 ~~funds shall not be used for any other purpose. If an offset does~~
28 ~~occur or the funds are used for an unintended purpose, the~~
29 ~~administrator may terminate expenditure of any funds appropriated~~
30 ~~pursuant to this section and the administrator may request a~~
31 ~~reappropriation to accomplish the intended purpose. The~~
32 ~~administrator shall annually review and approve the proposed uses~~
33 ~~of any funds made available pursuant to this section.~~

34 SEC. 42. Section 8670.42 of the Government Code is amended
35 to read:

36 8670.42. (a) ~~The administrator and the State Lands~~
37 ~~Commission, independently, shall contract with the Department~~
38 ~~of Finance for the preparation of a detailed report that shall be~~
39 ~~submitted on or before January 1, 2013, and no less than once~~
40 ~~every four years thereafter, to the Governor and the Legislature~~

1 on the financial basis and programmatic effectiveness of the state's
2 oil spill prevention, response, and preparedness program. This
3 report shall include an analysis of all of the oil spill prevention,
4 response, and preparedness program's major expenditures, fees
5 and fines collected, staffing and equipment levels, spills responded
6 to, and other relevant issues. The report shall recommend measures
7 to improve the efficiency and effectiveness of the state's oil spill
8 prevention, response, and preparedness program, including, but
9 not limited to, measures to modify existing contingency plan
10 requirements, to improve protection of sensitive shoreline sites,
11 and to ensure adequate and equitable funding for the state's oil
12 spill prevention, response, and preparedness program.

13 (b) A report to be submitted pursuant to subdivision (a) shall
14 be submitted in compliance with Section 9795.

15 SEC. 43. Section 8670.47.5 of the Government Code is
16 amended to read:

17 8670.47.5. The following shall be deposited into the fund:

18 (a) The fee required pursuant to Section 8670.48.

19 (b) Any federal funds received to pay for response, containment,
20 abatement, and rehabilitation costs from an oil spill in waters of
21 the state.

22 (c) Any money borrowed by the Treasurer pursuant to Article
23 7.5 (commencing with Section 8670.53.1) or any draw on the
24 financial security obtained by the Treasurer pursuant to subdivision
25 (c) of Section 8670.48.

26 (d) Any interest earned on the moneys in the fund.

27 (e) Any costs recovered from responsible parties pursuant to
28 Section 8670.53 and subdivision (e) of Section 8670.53.1.

29 SEC. 44. Section 8670.48 of the Government Code is amended
30 to read:

31 8670.48. (a) (1) A uniform oil spill response fee in an amount
32 not exceeding twenty-five cents (\$.25) for each barrel of
33 petroleum products, as set by the administrator pursuant to
34 subdivision (f), shall be imposed upon a person who owns
35 petroleum products at the time the petroleum products are received
36 at a marine terminal within this state by means of a vessel from a
37 point of origin outside this state. The fee shall be collected by the
38 marine terminal and remitted to the State Board of Equalization
39 by the terminal operator on the 25th day of each month based upon

1 the number of barrels of petroleum products received during the
2 preceding month.

3 (2) An owner of petroleum products is liable for the fee until it
4 has been paid to the state, except that payment to a marine terminal
5 operator registered under this chapter is sufficient to relieve the
6 owner from further liability for the fee.

7 (b) An operator of a pipeline shall also pay a uniform oil spill
8 response fee in an amount not exceeding twenty-five cents (\$0.25)
9 for each barrel of petroleum products, as set by the administrator
10 pursuant to subdivision (f), transported into the state by means of
11 a pipeline operating across, under, or through the waters of the
12 state. The fee shall be paid on the 25th day of each month based
13 upon the number of barrels of petroleum products so transported
14 into the state during the preceding month.

15 (c) An operator of a refinery shall pay a uniform oil spill
16 response fee in an amount not exceeding twenty-five cents (\$0.25)
17 for each barrel of crude oil, as set by the administrator pursuant
18 to subdivision (f), received at a refinery within the state by any
19 method of transport. The fee shall be paid on the 25th day of each
20 month based upon the number of barrels of crude oil so received
21 during the preceding month.

22 (d) A marine terminal operator shall pay a uniform oil spill
23 response fee in an amount not exceeding twenty-five cents (\$0.25);
24 in accordance with subdivision (g), for each barrel of crude oil, as
25 set by the administrator pursuant to subdivision (f), that is
26 transported from within this state by means of a vessel to a
27 destination outside this state.

28 (e) An operator of a pipeline shall pay a uniform oil spill
29 response fee in an amount not exceeding twenty-five cents (\$0.25);
30 in accordance with subdivision (g), for each barrel of crude oil, as
31 set by the administrator pursuant to subdivision (f), transported
32 out of the state by pipeline.

33 (f) (1) The fees required pursuant to this section shall be
34 collected during any period for which the administrator determines
35 that collection is necessary for any of the following reasons:

36 (A) The amount in the fund is less than or equal to 95 percent
37 of the designated amount specified in subdivision (a) of Section
38 46012 of the Revenue and Taxation Code.

39 (B) Additional money is required to pay for the purposes
40 specified in subdivision (k).

1 ~~(C) The revenue is necessary to repay a draw on a financial~~
2 ~~security obtained by the Treasurer pursuant to subdivision (o) or~~
3 ~~borrowing by the Treasurer pursuant to Article 7.5 (commencing~~
4 ~~with Section 8670.53.1), including any principal, interest, premium,~~
5 ~~fees, charges, or costs of any kind incurred in connection with~~
6 ~~those borrowings or financial security.~~

7 ~~(2) The administrator, in consultation with the State Board of~~
8 ~~Equalization, and with the approval of the Treasurer, may direct~~
9 ~~the State Board of Equalization to cease collecting the fee when~~
10 ~~the administrator determines that further collection of the fee is~~
11 ~~not necessary for the purposes specified in paragraph (1).~~

12 ~~(3) The administrator, in consultation with the State Board of~~
13 ~~Equalization, shall set the amount of the oil spill response fees.~~
14 ~~The oil spill response fees shall be imposed on all fee payers in the~~
15 ~~same amount. The administrator shall not set the amount of the~~
16 ~~fee at less than twenty-five cents (\$0.25) for each barrel of~~
17 ~~petroleum products or crude oil, unless the administrator finds that~~
18 ~~the assessment of a lesser fee will cause the fund to reach the~~
19 ~~designated amount specified in subdivision (a) of Section 46012~~
20 ~~of the Revenue and Taxation Code within four months. The fee~~
21 ~~shall not be less than twenty-five cents (\$0.25) for each barrel of~~
22 ~~petroleum products or crude oil if the administrator has drawn~~
23 ~~upon the financial security obtained by the Treasurer pursuant to~~
24 ~~subdivision (o) or if the Treasurer has borrowed money pursuant~~
25 ~~to Article 7.5 (commencing with Section 8670.53.1) and principal,~~
26 ~~interest, premium, fees, charges, or costs of any kind incurred in~~
27 ~~connection with those borrowings remain outstanding or unpaid,~~
28 ~~unless the Treasurer has certified to the administrator that the~~
29 ~~money in the fund is not necessary for the purposes specified in~~
30 ~~paragraph (1).~~

31 ~~(g) The fees imposed by subdivisions (d) and (e) shall be~~
32 ~~imposed in any calendar year beginning the month following the~~
33 ~~month when the total cumulative year-to-date barrels of crude oil~~
34 ~~transported outside the state by all fee payers by means of vessel~~
35 ~~or pipeline exceed 6 percent by volume of the total barrels of crude~~
36 ~~oil and petroleum products subject to oil spill response fees under~~
37 ~~subdivisions (a), (b), and (c) for the prior calendar year.~~

38 ~~(h) For purposes of this chapter, “designated amount” means~~
39 ~~the amounts specified in Section 46012 of the Revenue and~~
40 ~~Taxation Code.~~

1 ~~(i) The administrator, in consultation with the State Board of~~
2 ~~Equalization and with the approval of the Treasurer, shall authorize~~
3 ~~refunds of any money collected that is not necessary for the~~
4 ~~purposes specified in paragraph (1) of subdivision (f). The State~~
5 ~~Board of Equalization, as directed by the administrator, and in~~
6 ~~accordance with Section 46653 of the Revenue and Taxation Code,~~
7 ~~shall refund the excess amount of fees collected to each feepayer~~
8 ~~who paid the fee to the state, in proportion to the amount that each~~
9 ~~feepayer paid into the fund during the preceding 12 monthly~~
10 ~~reporting periods in which there was a fee due, including the month~~
11 ~~in which the fund exceeded the specified amount. If the total~~
12 ~~amount of money in the fund exceeds the amount specified in this~~
13 ~~subdivision by 10 percent or less, refunds need not be ordered by~~
14 ~~the administrator. This section does not require the refund of excess~~
15 ~~fees as provided in this subdivision more frequently than once~~
16 ~~each year.~~

17 ~~(j) The State Board of Equalization shall collect the fee and~~
18 ~~adopt regulations implementing the fee collection program. All~~
19 ~~fees collected pursuant to this section shall be deposited in the Oil~~
20 ~~Spill Response Trust Fund.~~

21 ~~(k) The fee described in this section shall be collected solely~~
22 ~~for any of the following purposes:~~

23 ~~(1) To provide funds to cover promptly the costs of response,~~
24 ~~containment, and cleanup of oil spills into waters of the state,~~
25 ~~including damage assessment costs and wildlife rehabilitation as~~
26 ~~provided in Section 8670.61.5.~~

27 ~~(2) To cover response and cleanup costs and other damages~~
28 ~~suffered by the state or other persons or entities from oil spills into~~
29 ~~waters of the state that cannot otherwise be compensated by~~
30 ~~responsible parties or the federal government.~~

31 ~~(3) To pay claims for damages pursuant to Section 8670.51.~~

32 ~~(4) To pay claims for damages, except for damages described~~
33 ~~in paragraph (7) of subdivision (h) of Section 8670.56.5, pursuant~~
34 ~~to Section 8670.51.1.~~

35 ~~(5) To pay for the cost of obtaining financial security in the~~
36 ~~amount specified in subdivision (b) of Section 46012 of the~~
37 ~~Revenue and Taxation Code, as authorized by subdivision (o).~~

38 ~~(6) To pay indemnity and related costs and expenses as~~
39 ~~authorized by Section 8670.56.6.~~

1 ~~(7) To pay principal, interest, premium, if any, and fees, charges,~~
 2 ~~and costs of any kind incurred in connection with moneys drawn~~
 3 ~~by the administrator on the financial security obtained by the~~
 4 ~~Treasurer pursuant to subdivision (o) or borrowed by the Treasurer~~
 5 ~~pursuant to Article 7.5 (commencing with Section 8670.53.1).~~

6 ~~(8) [Reserved]~~

7 ~~(9) To respond to an imminent threat of a spill in accordance~~
 8 ~~with the provisions of Section 8670.62 pertaining to threatened~~
 9 ~~discharges.~~

10 ~~(f) The interest that the state earns on the funds deposited into~~
 11 ~~the Oil Spill Response Trust Fund shall be deposited in the fund~~
 12 ~~and shall be used to maintain the fund at the designated amount~~
 13 ~~specified in subdivision (a) of Section 46012 of the Revenue and~~
 14 ~~Taxation Code. If the amount in the fund exceeds that designated~~
 15 ~~amount, the interest shall be deposited into the Oil Spill Prevention~~
 16 ~~and Administration Fund, and shall be available for the purposes~~
 17 ~~authorized by Article 6 (commencing with Section 8670.38).~~

18 ~~(m) The Legislature finds and declares that effective response~~
 19 ~~to oil spills requires that the state have available sufficient funds~~
 20 ~~in a response fund. The Legislature further finds and declares that~~
 21 ~~maintenance of that fund is of utmost importance to the state and~~
 22 ~~that the money in the fund shall be used solely for the purposes~~
 23 ~~specified in subdivision (k).~~

24 ~~(n) [Reserved]~~

25 ~~(o) The Treasurer shall obtain financial security, in the~~
 26 ~~designated amount specified in subdivision (b) of Section 46012~~
 27 ~~of the Revenue and Taxation Code, in a form that, in the event of~~
 28 ~~an oil spill, may be drawn upon immediately by the administrator~~
 29 ~~upon making the determinations required by paragraph (2) of~~
 30 ~~subdivision (a) of Section 8670.49. The financial security may be~~
 31 ~~obtained in any of the forms described in subdivision (b) of Section~~
 32 ~~8670.53.3, as determined by the Treasurer.~~

33 ~~(p) This section does not limit the authority of the administrator~~
 34 ~~to raise oil spill response fees pursuant to Section 8670.48.5.~~

35 ~~SEC. 45. Section 8670.48.3 of the Government Code is~~
 36 ~~amended to read:~~

37 ~~8670.48.3. (a) Notwithstanding subparagraph (A) of paragraph~~
 38 ~~(1) of subdivision (f) of Section 8670.48, a loan or other transfer~~
 39 ~~of money from the fund to the General Fund pursuant to the Budget~~
 40 ~~Act that reduces the balance of the Oil Spill Response Trust Fund~~

1 to less than or equal to 95 percent of the designated amount
2 specified in subdivision (a) of Section 46012 of the Revenue and
3 Taxation Code shall not obligate the administrator to resume
4 collection of the oil spill response fee otherwise required by this
5 article if both of the following conditions are met:

6 (1) The annual Budget Act requires a transfer or loan from the
7 fund to be repaid to the fund with interest calculated at a rate earned
8 by the Pooled Money Investment Account as if the money had
9 remained in the fund.

10 (2) The annual Budget Act requires all transfers or loans to be
11 repaid to the fund on or before June 30, 2017.

12 (b) A transfer or loan described in subdivision (a) shall be repaid
13 as soon as possible if a spill occurs and the administrator
14 determines that response funds are needed immediately.

15 (c) If there is a conflict between this section and any other law
16 or enactment, this section shall control.

17 (d) This section shall become inoperative on July 1, 2017, and,
18 as of January 1, 2018, is repealed, unless a later enacted statute,
19 that becomes operative on or before January 1, 2018, deletes or
20 extends the dates on which it becomes inoperative and is repealed.

21 SEC. 46. Section 8670.49 of the Government Code is amended
22 to read:

23 8670.49. (a) (1) The administrator may only expend money
24 from the fund to pay for any of the following, subject to the lien
25 established in Section 8670.53.2:

26 (A) To pay the cost of obtaining financial security as authorized
27 by paragraph (5) of subdivision (k) and subdivision (o) of Section
28 8670.48.

29 (B) To pay the principal, interest, premium, if any, and fees,
30 charges, and costs of any kind incurred in connection with moneys
31 drawn by the administrator on the financial security obtained by
32 the Treasurer, or the moneys borrowed by the Treasurer, as
33 authorized by paragraph (7) of subdivision (k) of Section 8670.48.

34 (C) To pay for the expansion, in the VTS area, pursuant to
35 Section 445 of the Harbors and Navigation Code, of the vessel
36 traffic service system (VTS system) authorized pursuant to
37 subdivision (f) of Section 8670.21.

38 (2) If a spill has occurred, the administrator may expend the
39 money in the fund for the purposes identified in paragraphs (1),

1 ~~(2), (3), (4), and (6) of subdivision (k) of Section 8670.48 only~~
2 ~~upon making the following determinations:~~

3 ~~(A) Except as authorized by Section 8670.51.1, a responsible~~
4 ~~party does not exist or the responsible party is unable or unwilling~~
5 ~~to provide adequate and timely cleanup and to pay for the damages~~
6 ~~resulting from the spill. The administrator shall make a reasonable~~
7 ~~effort to have the party responsible remove the oil or agree to pay~~
8 ~~for any actions resulting from the spill that may be required by~~
9 ~~law, provided that the efforts are not detrimental to fish, plant,~~
10 ~~animal, or bird life in the affected waters. The reasonable effort~~
11 ~~of the administrator shall include attempting to access the~~
12 ~~responsible parties' insurance or other proof of financial~~
13 ~~responsibility.~~

14 ~~(B) Sufficient federal oil spill funds are not available or will~~
15 ~~not be available in an adequate period of time.~~

16 ~~(3) Notwithstanding any other provision of this subdivision, the~~
17 ~~administrator may expend money from the fund for authorized~~
18 ~~expenditures when a reimbursement procedure is in place to receive~~
19 ~~reimbursements for those expenditures from federal oil spill funds.~~

20 ~~(b) Upon making the determinations specified in paragraph (2)~~
21 ~~of subdivision (a), the administrator shall immediately make~~
22 ~~whatever payments are necessary for responding to, containing,~~
23 ~~or cleaning up the spill, including any wildlife rehabilitation~~
24 ~~required by law and payment of claims pursuant to Sections~~
25 ~~8670.51 and 8670.51.1, subject to the lien established by Section~~
26 ~~8670.53.2.~~

27 ~~SEC. 47. Section 8670.50 of the Government Code is amended~~
28 ~~to read:~~

29 ~~8670.50. (a) Money from the fund may only be expended to~~
30 ~~cover the costs incurred by the state and local governments and~~
31 ~~agencies for any of the following:~~

32 ~~(1) Responding promptly to, containing, and cleaning up the~~
33 ~~discharge, if those efforts are any of the following:~~

34 ~~(A) Undertaken pursuant to the state and local oil spill~~
35 ~~contingency plans established under this chapter, and the California~~
36 ~~oil spill contingency plan established under Article 3.5~~
37 ~~(commencing with Section 8574.1) of Chapter 7.~~

38 ~~(B) Undertaken consistent with the standardized emergency~~
39 ~~management system established pursuant to Section 8607.~~

40 ~~(C) Undertaken at the direction of the administrator.~~

1 ~~(2) Meeting the requirements of Section 8670.61.5 relating to~~
2 ~~wildlife rehabilitation.~~

3 ~~(3) Making the payments authorized by subdivision (k) of~~
4 ~~Section 8670.48.~~

5 ~~(b) In the event of an oil spill, the administrator shall make~~
6 ~~whatever expenditures are necessary and appropriate from the fund~~
7 ~~to cover the costs described in subdivision (a), subject to the lien~~
8 ~~established pursuant to Section 8670.53.2.~~

9 ~~SEC. 48. Section 8670.51 of the Government Code is amended~~
10 ~~to read:~~

11 ~~8670.51. (a) When a person has obtained a final judgment for~~
12 ~~damages resulting from an oil spill in waters of the state, but is~~
13 ~~unable, within one year after the date of its entry, to enforce the~~
14 ~~judgment pursuant to Title 9 (commencing with Section 680.010)~~
15 ~~of the Code of Civil Procedure, or is unable to obtain satisfaction~~
16 ~~of the judgment from the federal government within 90 additional~~
17 ~~days, the administrator shall pay an amount not to exceed those~~
18 ~~amounts that cannot be recovered from a responsible party and the~~
19 ~~fund shall be subrogated to all rights, claims, and causes of action~~
20 ~~that the claimant has under this chapter, Article 3.5 (commencing~~
21 ~~with Section 8574.1) of Chapter 7, Section 8670.61.5, and Division~~
22 ~~7.8 (commencing with Section 8750) of the Public Resources~~
23 ~~Code.~~

24 ~~(b) Any person may apply to the fund for compensation for~~
25 ~~damages and losses suffered as a result of an oil spill in waters of~~
26 ~~the state under any of the following conditions:~~

27 ~~(1) The responsible party or parties cannot be ascertained.~~

28 ~~(2) A responsible party is not liable for noneconomic damages~~
29 ~~caused by another.~~

30 ~~(3) Subdivision (i) of Section 8670.56.6 is applicable to the~~
31 ~~claim.~~

32 ~~(c) The administrator shall not approve any claim in an amount~~
33 ~~that exceeds the amount to which the person would otherwise be~~
34 ~~entitled pursuant to Section 8670.56.5, and shall pay claims from~~
35 ~~the fund that are approved pursuant to this section.~~

36 ~~SEC. 49. Section 8670.53 of the Government Code is amended~~
37 ~~to read:~~

38 ~~8670.53. The Attorney General, in consultation with the~~
39 ~~administrator, shall undertake actions to recover all costs to the~~
40 ~~funds from any responsible party for an oil spill into waters of the~~

1 state for which expenditures are made from the fund. The recovery
2 of costs pursuant to this section shall not foreclose the Attorney
3 General from any other actions allowed by law.

4 ~~SEC. 50.~~

5 *SEC. 11.* Section 8670.54 of the Government Code is amended
6 to read:

7 8670.54. (a) The Oil Spill Technical Advisory Committee,
8 hereafter in this article, the committee, is hereby established to
9 provide public input and independent judgment of the actions of
10 the administrator. The committee shall consist of ~~14~~ 15 members,
11 of whom ~~eight~~ nine shall be appointed by the Governor, three by
12 the Speaker of the Assembly, and three by the Senate Rules
13 Committee. The appointments shall be made in the following
14 manner:

15 (1) The Speaker of the Assembly and Senate Committee on
16 Rules shall each appoint a member who shall be a representative
17 of the public.

18 (2) The Governor shall appoint a member who has a
19 demonstrable knowledge of marine transportation.

20 (3) The Speaker of the Assembly and the Senate Committee on
21 Rules shall each appoint two members who have demonstrable
22 knowledge of environmental protection and the study of
23 ecosystems.

24 (4) The Governor shall appoint a member who has served as a
25 local government elected official or who has worked for a local
26 government.

27 (5) The Governor shall appoint a member who has experience
28 in oil spill response and prevention programs.

29 (6) The Governor shall appoint a member who has been
30 employed in the petroleum industry.

31 (7) The Governor shall appoint a member who has worked in
32 state government.

33 (8) The Governor shall appoint a member who has demonstrable
34 knowledge of the dry cargo vessel industry.

35 (9) The Governor shall appoint a member who has demonstrable
36 knowledge of the railroad industry.

37 (10) The Governor shall appoint a member who has
38 demonstrable knowledge of the oil production industry.

39 (11) *The Governor shall appoint a member who has a*
40 *demonstrable knowledge of the truck transportation industry.*

1 (b) The committee shall meet as often as required, but at least
2 twice per year. Members shall be paid one hundred dollars (\$100)
3 per day for each meeting and all necessary travel expenses at state
4 per diem rates.

5 (c) The administrator and any personnel the administrator
6 determines to be appropriate shall serve as staff to the committee.

7 (d) A chair and vice chair shall be elected by a majority vote of
8 the committee.

9 SEC. 51. Section 8670.55 of the Government Code is amended
10 to read:

11 ~~8670.55. (a) The committee shall provide recommendations~~
12 ~~to the administrator, the State Lands Commission, the California~~
13 ~~Coastal Commission, the San Francisco Bay Conservation and~~
14 ~~Development Commission, the Division of Oil, Gas, and~~
15 ~~Geothermal Resources, the Office of the State Fire Marshal, and~~
16 ~~the Public Utilities Commission, on any provision of this chapter,~~
17 ~~including the promulgation of all rules, regulations, guidelines,~~
18 ~~and policies.~~

19 ~~(b) The committee may study, comment on, or evaluate, at its~~
20 ~~own discretion, any aspect of oil spill prevention and response in~~
21 ~~the state. To the greatest extent possible, these studies shall be~~
22 ~~coordinated with studies being done by the federal government,~~
23 ~~the administrator, the State Lands Commission, the State Water~~
24 ~~Resources Control Board, and other appropriate state and~~
25 ~~international entities. Duplication with the efforts of other entities~~
26 ~~shall be minimized.~~

27 ~~(c) The committee may attend any drills called pursuant to~~
28 ~~Section 8670.10 or any oil spills, if practicable.~~

29 ~~(d) The committee shall report biennially to the Governor and~~
30 ~~the Legislature on its evaluation of oil spill response and~~
31 ~~preparedness programs within the state and may prepare and send~~
32 ~~any additional reports it determines to be appropriate to the~~
33 ~~Governor and the Legislature.~~

34 SEC. 52. Section 8670.56.5 of the Government Code is
35 amended to read:

36 ~~8670.56.5. (a) A responsible party, as defined in Section~~
37 ~~8670.3, shall be absolutely liable without regard to fault for any~~
38 ~~damages incurred by any injured party that arise out of, or are~~
39 ~~caused by a spill.~~

1 ~~(b) A responsible person is not liable to an injured party under~~
2 ~~this section for any of the following:~~
3 ~~(1) Damages, other than costs of removal incurred by the state~~
4 ~~or a local government, caused solely by any act of war, hostilities,~~
5 ~~civil war, or insurrection or by an unanticipated grave natural~~
6 ~~disaster or other act of God of an exceptional, inevitable, and~~
7 ~~irresistible character, that could not have been prevented or avoided~~
8 ~~by the exercise of due care or foresight.~~
9 ~~(2) Damages caused solely by the negligence or intentional~~
10 ~~malfeasance of that injured party.~~
11 ~~(3) Damages caused solely by the criminal act of a third party~~
12 ~~other than the defendant or an agent or employee of the defendant.~~
13 ~~(4) Natural seepage not caused by a responsible party.~~
14 ~~(5) Discharge or leaking of oil or natural gas from a private~~
15 ~~pleasure boat or vessel.~~
16 ~~(6) Damages that arise out of, or are caused by, a discharge that~~
17 ~~is authorized by a state or federal permit.~~
18 ~~(e) The defenses provided in subdivision (b) shall not be~~
19 ~~available to a responsible person who fails to comply with Sections~~
20 ~~8670.25, 8670.25.5, 8670.27, and 8670.62.~~
21 ~~(d) Upon motion and sufficient showing by a party deemed to~~
22 ~~be responsible under this section, the court shall join to the action~~
23 ~~any other party who may be responsible under this section.~~
24 ~~(e) In determining whether a party is a responsible party under~~
25 ~~this section, the court shall consider the results of chemical or other~~
26 ~~scientific tests conducted to determine whether oil or other~~
27 ~~substances produced, discharged, or controlled by the defendant~~
28 ~~matches the oil or other substance that caused the damage to the~~
29 ~~injured party. The defendant shall have the burden of producing~~
30 ~~the results of tests of samples of the substance that caused the~~
31 ~~injury and of substances for which the defendant is responsible,~~
32 ~~unless it is not possible to conduct the tests because of~~
33 ~~unavailability of samples to test or because the substance is not~~
34 ~~one for which reliable tests have been developed. At the request~~
35 ~~of a party, any other party shall provide samples of oil or other~~
36 ~~substances within its possession or control for testing.~~
37 ~~(f) The court may award reasonable costs of the suit, attorney's~~
38 ~~fees, and the costs of necessary expert witnesses to a prevailing~~
39 ~~plaintiff. The court may award reasonable costs of the suit and~~
40 ~~attorney's fees to a prevailing defendant if the court finds that the~~

1 plaintiff commenced or prosecuted the suit pursuant to this section
2 in bad faith or solely for purposes of harassing the defendant.

3 ~~(g) This section does not prohibit a person from bringing an
4 action for damages caused by oil or by exploration, under any
5 other provision or principle of law, including, but not limited to,
6 common law. However, damages shall not be awarded pursuant
7 to this section to an injured party for loss or injury for which the
8 party is or has been awarded damages under any other provision
9 or principle of law. Subdivision (b) does not create a defense not
10 otherwise available regarding an action brought under any other
11 provision or principle of law, including, but not limited to, common
12 law.~~

13 ~~(h) Damages for which responsible parties are liable under this
14 section include the following:~~

15 ~~(1) All costs of response, containment, cleanup, removal, and
16 treatment, including, but not limited to, monitoring and
17 administration costs incurred pursuant to the California oil spill
18 contingency plan or actions taken pursuant to directions by the
19 administrator.~~

20 ~~(2) Injury to, or economic losses resulting from destruction of
21 or injury to, real or personal property, which shall be recoverable
22 by any claimant who has an ownership or leasehold interest in
23 property.~~

24 ~~(3) Injury to, destruction of or loss of, natural resources,
25 including, but not limited to, the reasonable costs of rehabilitating
26 wildlife, habitat, and other resources and the reasonable costs of
27 assessing that injury, destruction, or loss, in an action brought by
28 the state, a county, city, or district. Damages for the loss of natural
29 resources may be determined by any reasonable method, including,
30 but not limited to, determination according to the costs of restoring
31 the lost resource.~~

32 ~~(4) Loss of subsistence use of natural resources, which shall be
33 recoverable by a claimant who so uses natural resources that have
34 been injured, destroyed, or lost.~~

35 ~~(5) Loss of taxes, royalties, rents, or net profit shares caused by
36 the injury, destruction, loss, or impairment of use of real property,
37 personal property, or natural resources.~~

38 ~~(6) Loss of profits or impairment of earning capacity due to the
39 injury, destruction, or loss of real property, personal property, or
40 natural resources, which shall be recoverable by any claimant who~~

1 derives at least 25 percent of his or her earnings from the activities
2 that utilize the property or natural resources, or, if those activities
3 are seasonal in nature, 25 percent of his or her earnings during the
4 applicable season.

5 ~~(7) Loss of use and enjoyment of natural resources, public
6 beaches, and other public resources or facilities, in an action
7 brought by the state, a county, city, or district.~~

8 ~~(i) Except as provided in Section 1431.2 of the Civil Code,
9 liability under this section shall be joint and several. However, this
10 section does not bar a cause of action that a responsible party has
11 or would have, by reason of subrogation or otherwise, against a
12 person.~~

13 ~~(j) This section does not apply to claims for damages for
14 personal injury or wrongful death, and does not limit the right of
15 a person to bring an action for personal injury or wrongful death
16 pursuant to any provision or principle of law.~~

17 ~~(k) Payments made by a responsible party to cover liabilities
18 arising from a discharge of oil, whether under this division or any
19 other provision of federal, state, or local law, shall not be charged
20 against royalties, rents, or net profits owed to the United States,
21 the state, or any other public entity.~~

22 ~~(l) An action that a private or public individual or entity may
23 have against a responsible party under this section may be brought
24 directly by the individual or entity or by the state on behalf of the
25 individual or entity. However, the state shall not pursue an action
26 on behalf of a private individual or entity that requests the state
27 not to pursue that action.~~

28 ~~(m) For purposes of this section, “vessels” means vessels as
29 defined in Section 21 of the Harbors and Navigation Code.~~

30 ~~SEC. 53.~~

31 *SEC. 12.* Section 8670.56.6 of the Government Code is
32 amended to read:

33 8670.56.6. (a) (1) Except as provided in subdivisions (b) and
34 (d), and subject to subdivision (c), a person, including, but not
35 limited to, an oil spill cooperative, its agents, subcontractors, or
36 employees, shall not be liable under this chapter or the laws of the
37 state to any person for costs, damages, or other claims or expenses
38 as a result of actions taken or omitted in good faith in the course
39 of rendering care, assistance, or advice in accordance with the
40 National Contingency Plan, the California oil spill contingency

1 plan, or at the direction of the administrator, onsite coordinator,
2 or the Coast Guard in response to a spill or threatened spill.

3 (2) The qualified immunity under this section shall not apply
4 to any oil spill response action that is inconsistent with the
5 following:

6 (A) The directions of the unified command, consisting of at
7 least the Coast Guard and the administrator.

8 (B) In the absence of a unified command, the directions of the
9 administrator pursuant to Section 8670.27.

10 (C) In the absence of directions pursuant to subparagraph (A)
11 or (B), applicable oil spill contingency plans implemented under
12 this division.

13 (3) Nothing in this section shall, in any manner or respect, affect
14 or impair any cause of action against or any liability of any person
15 or persons responsible for the spill, for the discharged oil, or for
16 the vessel, terminal, pipeline, or facility from which the oil was
17 discharged. The responsible person or persons shall remain liable
18 for any and all damages arising from the discharge, including
19 damages arising from improperly carried out response efforts, as
20 otherwise provided by law.

21 (b) Nothing in this section shall, in any manner or respect, affect
22 or impair any cause of action against or any liability of any party
23 or parties responsible for the spill, or the responsible party's agents,
24 employees, or subcontractors, except persons immunized under
25 subdivision (a) for response efforts, for the discharged oil, or for
26 the vessel, *truck*, terminal, pipeline, or facility from which the oil
27 was discharged.

28 (c) The responsible party or parties shall be subject to both of
29 the following:

30 (1) Notwithstanding subdivision (b) or (i) of Section 8670.56.5,
31 or any other law, be strictly and jointly and severally liable for all
32 damages arising pursuant to subdivision (h) of Section 8670.56.5
33 from the response efforts of its agents, employees, subcontractors,
34 or an oil spill cooperative of which it is a member or with which
35 it has a contract or other arrangement for cleanup of its oil spills,
36 unless it would have a defense to the original spill.

37 (2) Remain strictly liable for any and all damages arising from
38 the response efforts of a person other than a person specified in
39 paragraph (1).

1 (d) Nothing in this section shall immunize a cooperative or any
2 other person from liability for acts of gross negligence or willful
3 misconduct in connection with the cleanup of a spill.

4 (e) This section does not apply to any action for personal injury
5 or wrongful death.

6 (f) As used in this section, a “cooperative” means an
7 organization of private persons that is established for the primary
8 purpose and activity of preventing or rendering care, assistance,
9 or advice in response to a spill or threatened spill.

10 (g) Except for the responsible party, membership in a
11 cooperative shall not be grounds, in and of itself, for liability
12 resulting from cleanup activities of the cooperative.

13 (h) For purposes of this section, there shall be a rebuttable
14 presumption that an act or omission described in subdivision (a)
15 was taken in good faith.

16 (i) In any situation in which immunity is granted pursuant to
17 subdivision (a) and a responsible party is not liable, is not liable
18 for noneconomic damages caused by another, or is partially or
19 totally insolvent, the fund provided for in Article 7 (commencing
20 with Section 8670.46) shall reimburse, in accordance with its terms,
21 claims of any injured party for which a person who is granted
22 immunity pursuant to this section would otherwise be liable.

23 (j) (1) The immunity granted by this section shall only apply
24 to response efforts that are undertaken after the administrator
25 certifies that contracts with qualified and responsible persons are
26 in place to ensure an adequate and expeditious response to any
27 foreseeable oil spill that may occur in waters of the state for which
28 the responsible party (A) cannot be identified or (B) is unable or
29 unwilling to respond, contain, and clean up the oil spill in an
30 adequate and timely manner. In negotiating these contracts, the
31 administrator shall procure, to the maximum extent practicable,
32 the services of persons who are willing to respond to oil spills with
33 no, or lesser, immunity than that conferred by this section, but, in
34 no event, a greater immunity. The administrator shall make the
35 certification required by this subdivision on an annual basis. Upon
36 certification, the immunity conferred by this section shall apply
37 to all response efforts undertaken during the calendar year to which
38 the certification applies. In the absence of the certification required
39 by this subdivision, the immunity conferred by this section shall

1 not attach to any response efforts undertaken by any person in
2 waters of the state.

3 (2) In addition to the authority to negotiate contracts described
4 in paragraph (1), the administrator may also negotiate and enter
5 into indemnification agreements with qualified and financially
6 responsible persons to respond to oil spills that may occur in waters
7 of the state for which the responsible party (A) cannot be identified
8 or (B) is unable or unwilling to respond, contain, and clean up the
9 oil spill in an adequate and timely manner.

10 (3) The administrator may indemnify response contractors for
11 (A) all damages payable by means of settlement or judgment that
12 arise from response efforts to which the immunity conferred by
13 this section would otherwise apply, and (B) reasonably related
14 legal costs and expenses incurred by the responder, provided that
15 indemnification shall only apply to response efforts undertaken
16 after the expiration of any immunity that may exist as the result
17 of the contract negotiations authorized in this subdivision. In
18 negotiating these contracts, the administrator shall procure, to the
19 maximum extent practicable, the services of persons who are
20 willing to respond to oil spills with no, or as little, right to
21 indemnification as possible. All indemnification shall be paid by
22 the administrator from the Oil Spill Response Trust Fund.

23 (4) (A) The contracts required by this section, and any other
24 contracts entered into by the administrator for response,
25 containment, or cleanup of an existing spill, or for response of an
26 imminent threat of a spill, the payment of which is to be made
27 from the Oil Spill Response Trust Fund created pursuant to Section
28 8670.46, shall be exempt from Part 2 (commencing with Section
29 10100) of Division 2 of the Public Contract Code and Article 6
30 (commencing with Section 999) of Chapter 6 of Division 4 of the
31 Military and Veterans Code.

32 (B) The exemption specified in subparagraph (A) applies only
33 to contracts for which the services are used for a period of less
34 than 90 days, cumulatively, per year.

35 (C) This paragraph shall not be construed as limiting the
36 administrator's authority to exercise the emergency powers granted
37 pursuant to subdivision (c) of Section 8670.62, including the
38 authority to enter into emergency contracts that are exempt from
39 approval by the Department of General Services.

1 (k) (1) With regard to a person who is regularly engaged in the
2 business of responding to oil spills, the immunity conferred by
3 this section shall not apply to any response efforts by that person
4 that occur later than 60 days after the first day the person’s response
5 efforts commence.

6 (2) Notwithstanding the limitation contained in paragraph (1),
7 the administrator may extend, upon making all the following
8 findings, the period of time, not to exceed 30 days, during which
9 the immunity conferred by this section applies to response efforts:

10 (A) Due to inadequate or incomplete containment and
11 stabilization, there exists a substantial probability that the size of
12 the spill will significantly expand and (i) threaten previously
13 uncontaminated resources, (ii) threaten already contaminated
14 resources with substantial additional contamination, or (iii)
15 otherwise endanger the public health and safety or harm the
16 environment.

17 (B) The remaining work is of a difficult or perilous nature that
18 extension of the immunity is clearly in the public interest.

19 (C) No other qualified and financially responsible contractor is
20 prepared and willing to complete the response effort in the absence
21 of the immunity, or a lesser immunity, as negotiated by contract.

22 (3) The administrator shall provide five days’ notice of his or
23 her proposed decision to either extend, or not extend, the immunity
24 conferred by this section. Interested parties shall be given an
25 opportunity to present oral and written evidence at an informal
26 hearing. In making his or her proposed decision, the administrator
27 shall specifically seek and consider the advice of the relevant Coast
28 Guard representative. The administrator’s decision to not extend
29 the immunity shall be announced at least 10 working days before
30 the expiration of the immunity to provide persons an opportunity
31 to terminate their response efforts as contemplated by paragraph
32 (4).

33 (4) A person or their agents, subcontractors, or employees shall
34 not incur any liability under this chapter or any other provision of
35 law solely as a result of that person’s decision to terminate their
36 response efforts because of the expiration of the immunity
37 conferred by this section. A person’s decision to terminate response
38 efforts because of the expiration of the immunity conferred by this
39 section shall not in any manner impair, curtail, limit, or otherwise
40 affect the immunity conferred on the person with regard to the

1 person's response efforts undertaken during the period of time the
2 immunity applied to those response efforts.

3 (5) The immunity granted under this section shall attach, without
4 the limitation contained in this subdivision, to the response efforts
5 of any person who is not regularly engaged in the business of
6 responding to oil spills. A person who is not regularly engaged in
7 the business of responding to oil spills includes, but is not limited
8 to, (A) a person who is primarily dedicated to the preservation and
9 rehabilitation of wildlife and (B) a person who derives his or her
10 livelihood primarily from fishing.

11 (l) As used in this section, "response efforts" means rendering
12 care, assistance, or advice in accordance with the National
13 Contingency Plan, the California oil spill contingency plan, or at
14 the direction of the administrator, United States Environmental
15 Protection Agency, or the Coast Guard in response to a spill or
16 threatened spill into waters of the state.

17 ~~SEC. 54. Section 8670.61.5 of the Government Code is~~
18 ~~amended to read:~~

19 ~~8670.61.5. (a) For purposes of this chapter, "wildlife~~
20 ~~rehabilitation" means those actions that are necessary to fully~~
21 ~~mitigate for the damage from a spill caused to wildlife, fisheries,~~
22 ~~wildlife habitat, and fisheries habitat.~~

23 ~~(b) Responsible parties shall fully mitigate adverse impacts to~~
24 ~~wildlife, fisheries, wildlife habitat, and fisheries habitat. Full~~
25 ~~mitigation shall be provided by successfully carrying out~~
26 ~~environmental projects or funding restoration activities required~~
27 ~~by the administrator in carrying out projects complying with the~~
28 ~~requirements of this section. Responsible parties are also liable~~
29 ~~for the costs incurred by the administrator or other government~~
30 ~~agencies in carrying out this section.~~

31 ~~(c) If any significant wildlife rehabilitation is necessary, the~~
32 ~~administrator may require the responsible party to prepare and~~
33 ~~submit to the administrator, and to implement, a wildlife~~
34 ~~rehabilitation plan. The plan shall describe the actions that will be~~
35 ~~implemented to fully meet the requirements of subdivision (b),~~
36 ~~describe contingency measures that will be carried out in the event~~
37 ~~that any of the plan actions are not fully successful, provide a~~
38 ~~reasonable implementation schedule, describe the monitoring and~~
39 ~~compliance program, and provide a financing plan. The~~
40 ~~administrator shall review and determine whether to approve the~~

1 plan within 60 days of submittal. Before approving a plan, the
2 administrator shall first find that the implementation of the plan
3 will fully mitigate the adverse impacts to wildlife, fisheries, wildlife
4 habitat, and fisheries habitat. If the habitat contains beaches that
5 are or were used for recreational purposes, the Department of Parks
6 and Recreation shall review the plan and provide comments to the
7 administrator.

8 (d) The plan shall place first priority on avoiding and minimizing
9 any adverse impacts. For impacts that do occur, the plan shall
10 provide for full onsite restoration of the damaged resource to the
11 extent feasible. To the extent that full onsite restoration is not
12 feasible, the plan shall provide for offsite in-kind mitigation to the
13 extent feasible. To the extent that adverse impacts still have not
14 been fully mitigated, the plan shall provide for the enhancement
15 of other similar resources to the extent necessary to meet the
16 requirements of subdivision (b). In evaluating whether a wildlife
17 rehabilitation plan is adequate, the administrator may use the
18 habitat evaluation methods or procedures established by the United
19 States Fish and Wildlife Service or any other reasonable methods
20 as determined by the Department of Fish and Wildlife.

21 (e) The administrator shall prepare regulations to implement
22 this section. The regulations shall include deadlines for the
23 submittal of plans. In establishing the deadlines, the administrator
24 shall consider circumstances such as the size of the spill and the
25 time needed to assess damage and mitigation.

26 SEC. 55. Section 8670.62 of the Government Code is amended
27 to read:

28 8670.62. (a) Any person who discharges oil into waters of the
29 state, upon order of the administrator, shall do all of the following:

- 30 (1) Clean up the oil.
- 31 (2) Abate the effects of the discharge.
- 32 (3) In the case of a threatened discharge, take other necessary
33 remedial action.

34 (b) Upon failure of any person to comply with a cleanup or
35 abatement order, the Attorney General or a district attorney, at the
36 request of the administrator, shall petition the superior court for
37 that county for the issuance of an injunction requiring the person
38 to comply with the order. In any suit, the court shall have
39 jurisdiction to grant a prohibitory or mandatory injunction, either
40 preliminary or permanent, as the facts may warrant.

1 ~~(e) Consistent with the state contingency plan, the administrator~~
2 ~~may expend available money to perform any response;~~
3 ~~containment; cleanup; wildlife rehabilitation, which includes~~
4 ~~assessment of resource injuries and damages, or remedial work~~
5 ~~required pursuant to subdivision (a) that, in the administrator's~~
6 ~~judgment, is required by the circumstances or the urgency of~~
7 ~~prompt action required to prevent pollution, nuisance, or injury to~~
8 ~~the environment of the state. The action may be taken in default~~
9 ~~of, or in addition to, remedial work by the responsible party or~~
10 ~~other persons, and regardless of whether injunctive relief is sought.~~
11 ~~The administrator may perform the work in cooperation with any~~
12 ~~other governmental agency, and may use rented tools or equipment,~~
13 ~~either with or without operators furnished. Notwithstanding any~~
14 ~~other law, the administrator may enter into oral contracts for the~~
15 ~~work, and the contracts, whether written or oral, may include~~
16 ~~provisions for equipment rental and the furnishing of labor and~~
17 ~~materials necessary to accomplish the work. The contracts shall~~
18 ~~be exempt from Part 2 (commencing with Section 10100) of~~
19 ~~Division 2 of the Public Contract Code and Article 6 (commencing~~
20 ~~with Section 999) of Chapter 6 of Division 4 of the Military and~~
21 ~~Veterans Code.~~

22 ~~(d) If the discharge is cleaned up, or attempted to be cleaned~~
23 ~~up, the effects thereof abated, or, in the case of threatened pollution~~
24 ~~or nuisance, other necessary remedial action is taken by any~~
25 ~~governmental agency, the person or persons who discharged the~~
26 ~~waste, discharged the oil, or threatened to cause or permit the~~
27 ~~discharge of the oil within the meaning of subdivision (a) shall be~~
28 ~~liable to that governmental agency for the reasonable costs actually~~
29 ~~incurred in cleaning up that waste, abating the effects thereof, or~~
30 ~~taking other remedial action. The amount of the costs shall be~~
31 ~~recoverable in a civil action by, and paid to, the applicable~~
32 ~~governmental agency and the administrator, to the extent the~~
33 ~~administrator contributed to the cleanup costs from the Oil Spill~~
34 ~~Response Trust Fund or other available funds.~~

35 ~~(e) If, despite reasonable effort by the administrator to identify~~
36 ~~the party responsible for the discharge of oil or the condition of~~
37 ~~pollution or nuisance, the person is not identified at the time~~
38 ~~cleanup, abatement, or remedial work must be performed, the~~
39 ~~administrator shall not be required to issue an order under this~~

1 ~~section. The absence of a responsible party shall not in any way~~
2 ~~limit the powers of the administrator under this section.~~

3 ~~(f) For purposes of this section, “threaten” means a condition~~
4 ~~creating a substantial probability of harm, when the probability~~
5 ~~and potential extent of harm makes it reasonably necessary to take~~
6 ~~immediate action to prevent, reduce, or mitigate damages to~~
7 ~~persons, property, or natural resources.~~

8 ~~SEC. 56. Section 8670.64 of the Government Code is amended~~
9 ~~to read:~~

10 ~~8670.64. (a) A person who commits any of the following acts~~
11 ~~shall, upon conviction, be punished by imprisonment in a county~~
12 ~~jail for not more than one year or by imprisonment pursuant to~~
13 ~~subdivision (h) of Section 1170 of the Penal Code:~~

14 ~~(1) Except as provided in Section 8670.27, knowingly fails to~~
15 ~~follow the direction or orders of the administrator in connection~~
16 ~~with an oil spill.~~

17 ~~(2) Knowingly fails to notify the Coast Guard that a vessel is~~
18 ~~disabled within one hour of the disability and the vessel, while~~
19 ~~disabled, causes a discharge of oil that enters marine waters. For~~
20 ~~purposes of this paragraph, “vessel” means a vessel, as defined in~~
21 ~~Section 21 of the Harbors and Navigation Code, of 300 gross tons~~
22 ~~or more.~~

23 ~~(3) Knowingly engages in or causes the discharge or spill of oil~~
24 ~~into waters of the state, or a person who reasonably should have~~
25 ~~known that he or she was engaging in or causing the discharge or~~
26 ~~spill of oil into waters of the state, unless the discharge is~~
27 ~~authorized by the United States, the state, or another agency with~~
28 ~~appropriate jurisdiction.~~

29 ~~(4) Knowingly fails to begin cleanup, abatement, or removal of~~
30 ~~spilled oil as required in Section 8670.25.~~

31 ~~(b) The court shall also impose upon a person convicted of~~
32 ~~violating subdivision (a), a fine of not less than five thousand~~
33 ~~dollars (\$5,000) or more than five hundred thousand dollars~~
34 ~~(\$500,000) for each violation. For purposes of this subdivision,~~
35 ~~each day or partial day that a violation occurs is a separate~~
36 ~~violation.~~

37 ~~(c) (1) A person who knowingly does any of the acts specified~~
38 ~~in paragraph (2) shall, upon conviction, be punished by a fine of~~
39 ~~not less than two thousand five hundred dollars (\$2,500) or more~~
40 ~~than two hundred fifty thousand dollars (\$250,000), or by~~

1 imprisonment in a county jail for not more than one year, or by
2 both the fine and imprisonment. Each day or partial day that a
3 violation occurs is a separate violation. If the conviction is for a
4 second or subsequent violation of this subdivision, the person shall
5 be punished by imprisonment pursuant to subdivision (h) of Section
6 1170 of the Penal Code, or in a county jail for not more than one
7 year, or by a fine of not less than five thousand dollars (\$5,000)
8 or more than five hundred thousand dollars (\$500,000), or by both
9 that fine and imprisonment:

10 (2) The acts subject to this subdivision are all of the following:

11 (A) Failing to notify the Office of Emergency Services in
12 violation of Section 8670.25.5.

13 (B) Knowingly making a false or misleading oil spill report to
14 the Office of Emergency Services.

15 (C) Continuing operations for which an oil spill contingency
16 plan is required without an oil spill contingency plan approved
17 pursuant to Article 5 (commencing with Section 8670.28).

18 (D) Except as provided in Section 8670.27, knowingly failing
19 to follow the material provisions of an applicable oil spill
20 contingency plan.

21 SEC. 57. Section 8670.66 of the Government Code is amended
22 to read:

23 8670.66. (a) Any person who intentionally or negligently does
24 any of the following acts shall be subject to a civil penalty for a
25 spill of not less than fifty thousand dollars (\$50,000) or more than
26 one million dollars (\$1,000,000), for each violation, and each day
27 or partial day that a violation occurs is a separate violation:

28 (1) Except as provided in Section 8670.27, fails to follow the
29 direction or orders of the administrator in connection with a spill
30 or inland spill.

31 (2) Fails to notify the Coast Guard that a vessel is disabled
32 within one hour of the disability and the vessel, while disabled,
33 causes a spill that enters waters of the state. For purposes of this
34 paragraph, "vessel" means a vessel, as defined in Section 21 of
35 the Harbors and Navigation Code, of 300 gross tons or more.

36 (3) Is responsible for a spill, unless the discharge is authorized
37 by the United States, the state, or other agency with appropriate
38 jurisdiction.

39 (4) Fails to begin cleanup, abatement, or removal of oil as
40 required in Section 8670.25.

1 ~~(b) Except as provided in subdivision (a), any person who~~
2 ~~intentionally or negligently violates any provision of this chapter,~~
3 ~~or Division 7.8 (commencing with Section 8750) of the Public~~
4 ~~Resources Code, or any permit, rule, regulation, standard, or~~
5 ~~requirement issued or adopted pursuant to those provisions, shall~~
6 ~~be liable for a civil penalty not to exceed two hundred fifty~~
7 ~~thousand dollars (\$250,000) for each violation of a separate~~
8 ~~provision, or, for continuing violations, for each day that violation~~
9 ~~continues.~~

10 ~~(c) A person shall not be liable for a civil penalty imposed under~~
11 ~~this section and for a civil penalty imposed pursuant to Section~~
12 ~~8670.67 for the same act or failure to act.~~

13 ~~SEC. 58. Section 8670.67 of the Government Code is amended~~
14 ~~to read:~~

15 ~~8670.67. (a) Any person who intentionally or negligently does~~
16 ~~any of the following acts shall be subject to an administrative civil~~
17 ~~penalty for a spill not to exceed two hundred thousand dollars~~
18 ~~(\$200,000), for each violation as imposed by the administrator~~
19 ~~pursuant to Section 8670.68, and each day or partial day that a~~
20 ~~violation occurs is a separate violation:~~

21 ~~(1) Except as provided in Section 8670.27, fails to follow the~~
22 ~~applicable contingency plans or the direction or orders of the~~
23 ~~administrator in connection with a spill or inland spill.~~

24 ~~(2) Fails to notify the Coast Guard that a vessel is disabled~~
25 ~~within one hour of the disability and the vessel, while disabled,~~
26 ~~causes a discharge that enters waters of the state or inland waters.~~
27 ~~For purposes of this paragraph, "vessel" means a vessel, as defined~~
28 ~~in Section 21 of the Harbors and Navigation Code, of 300 gross~~
29 ~~tons or more.~~

30 ~~(3) Is responsible for a spill, unless the discharge is authorized~~
31 ~~by the United States, the state, or other agency with appropriate~~
32 ~~jurisdiction.~~

33 ~~(4) Fails to begin cleanup, abatement, or removal of spilled oil~~
34 ~~as required by Section 8670.25.~~

35 ~~(b) Except as provided in subdivision (a), any person who~~
36 ~~intentionally or negligently violates any provision of this chapter,~~
37 ~~or Division 7.8 (commencing with Section 8750) of the Public~~
38 ~~Resources Code, or any permit, rule, regulation, standard, cease~~
39 ~~and desist order, or requirement issued or adopted pursuant to~~
40 ~~those provisions, shall be liable for an administrative civil penalty~~

1 as imposed by the administrator pursuant to Section 8670.68, not
2 to exceed one hundred thousand dollars (\$100,000) for each
3 violation of a separate provision, or, for continuing violations, for
4 each day that violation continues.

5 (e) A person shall not be liable for a civil penalty imposed
6 under this section and for a civil penalty imposed pursuant to
7 Section 8670.66 for the same act or failure to act.

8 SEC. 59. Section 8670.67.5 of the Government Code is
9 amended to read:

10 8670.67.5. (a) Any person who without regard to intent or
11 negligence causes or permits a spill shall be strictly liable civilly
12 in accordance with subdivision (b) or (c).

13 (b) A penalty may be administratively imposed by the
14 administrator in accordance with Section 8670.68 in an amount
15 not to exceed twenty dollars (\$20) per gallon for a spill. The
16 amount of the penalty shall be reduced for every gallon of released
17 oil that is recovered and properly disposed of in accordance with
18 applicable law.

19 (c) Whenever the release of oil resulted from gross negligence
20 or reckless conduct, the administrator shall, in accordance with
21 Section 8670.68, impose a penalty in an amount not to exceed
22 sixty dollars (\$60) per gallon for a spill. The amount of the penalty
23 shall be reduced for every gallon of released oil that is recovered
24 and properly disposed of in accordance with applicable law.

25 (d) The administrator shall adopt regulations governing the
26 method for determining the amount of oil that is cleaned up.

27 SEC. 60. Section 8670.69.4 of the Government Code is
28 amended to read:

29 8670.69.4. (a) When the administrator determines that any
30 person has undertaken, or is threatening to undertake, any activity
31 or procedure that (1) requires a permit, certificate, approval, or
32 authorization under this chapter, without securing a permit,
33 certificate, approval, or authorization, or (2) is inconsistent with
34 any of the permits, certificates, rules, regulations, guidelines, or
35 authorizations previously issued or adopted by the administrator,
36 or (3) threatens to cause or substantially increases the risk of
37 unauthorized discharge of oil into the waters of the state, the
38 administrator may issue an order requiring that person to cease
39 and desist.

1 ~~(b) Any cease and desist order issued by the administrator may~~
2 ~~be subject to terms and conditions as the administrator may~~
3 ~~determine are necessary to ensure compliance with this division.~~

4 ~~(c) Any cease and desist order issued by the administrator shall~~
5 ~~become null and void 90 days after issuance.~~

6 ~~(d) A cease and desist order issued by the administrator shall~~
7 ~~be effective upon the issuance thereof, and copies shall be served~~
8 ~~immediately by certified mail upon the person or governmental~~
9 ~~agency being charged with the actual or threatened violation.~~

10 ~~(e) Any cease and desist order issued by the administrator shall~~
11 ~~be consistent with subdivision (a) of Section 8670.27.~~

12 ~~SEC. 61. Section 8670.69.7 of the Government Code is~~
13 ~~repealed.~~

14 ~~SEC. 62. Section 8670.71 of the Government Code is amended~~
15 ~~to read:~~

16 ~~8670.71. (a) The administrator shall fund only those projects~~
17 ~~approved by the Environmental Enhancement Committee.~~

18 ~~(b) For purposes of this article, an enhancement project is a~~
19 ~~project that acquires habitat for preservation, or improves habitat~~
20 ~~quality and ecosystem function above baseline conditions, and that~~
21 ~~meets all of the following requirements:~~

22 ~~(1) Is located within or immediately adjacent to waters of the~~
23 ~~state, as defined in Section 8670.3.~~

24 ~~(2) Has measurable outcomes within a predetermined timeframe.~~

25 ~~(3) Is designed to acquire, restore, or improve habitat or restore~~
26 ~~ecosystem function, or both, to benefit fish and wildlife.~~

27 ~~SEC. 63. Section 8670.95 is added to the Government Code,~~
28 ~~to read:~~

29 ~~8670.95. If any provision of this chapter or the application~~
30 ~~thereof to any person or circumstances is held invalid, that~~
31 ~~invalidity shall not affect other provisions or applications of the~~
32 ~~chapter that can be given effect without the invalid provision or~~
33 ~~application, and to this end the provisions of this chapter are~~
34 ~~severable.~~

35 ~~SEC. 64. Section 449 of the Harbors and Navigation Code is~~
36 ~~amended to read:~~

37 ~~449. (a) The marine exchange and its officers and directors~~
38 ~~are subject to Section 5047.5 of the Corporations Code to the extent~~
39 ~~that the marine exchange meets the criteria specified in that section.~~

1 ~~(b) Nothing in this section shall be deemed to include the marine~~
2 ~~exchange or its officers, directors, employees, or representatives~~
3 ~~within the meaning of “responsible party” as defined in Section~~
4 ~~8670.3 of the Government Code and subdivision (p) of Section~~
5 ~~8750 of the Public Resources Code for the purposes of the~~
6 ~~Lempert-Keene-Seastrand Oil Spill Prevention and Response Act~~
7 ~~(Article 3.5 (commencing with Section 8574.1) of Chapter 7 and~~
8 ~~Chapter 7.4 (commencing with Section 8670.1) of Division 1 of~~
9 ~~Title 2 of the Government Code and Division 7.8 (commencing~~
10 ~~with Section 8750) of the Public Resources Code).~~

11 ~~SEC. 65.~~

12 *SEC. 13.* Section 765.5 of the Public Utilities Code is amended
13 to read:

14 765.5. (a) The purpose of this section is to provide that the
15 commission takes all appropriate action necessary to ensure the
16 safe operation of railroads in this state.

17 (b) The commission shall dedicate sufficient resources necessary
18 to adequately carry out the State Participation Program for the
19 regulation of rail transportation of hazardous materials as
20 authorized by the Hazardous Material Transportation Uniform
21 Safety Act of 1990 (P.L. 101-615).

22 (c) On or before July 1, 1992, the commission shall hire a
23 minimum of six additional rail inspectors who are or shall become
24 federally certified, consisting of three additional motive power
25 and equipment inspectors, two signal inspectors, and one operating
26 practices inspector, for the purpose of enforcing compliance by
27 railroads operating in this state with state and federal safety
28 regulations.

29 (d) On or before July 1, 1992, the commission shall establish,
30 by regulation, a minimum inspection standard to ensure, at the
31 time of inspection, that railroad locomotives, equipment, and
32 facilities located in class I railroad yards in California will be
33 inspected not less frequently than every 120 days, and inspection
34 of all branch and main line track not less frequently than every 12
35 months.

36 (e) Commencing July 1, 2008, in addition to the minimum
37 inspections undertaken pursuant to subdivision (d), the commission
38 shall conduct focused inspections of railroad yards and track, either
39 in coordination with the Federal Railroad Administration or as the
40 commission determines to be necessary. The focused inspection

1 program shall target railroad yards and track that pose the greatest
2 safety risk, based on inspection data, accident history, and rail
3 traffic density.

4 (f) Commencing January 1, 2015, in addition to the inspections
5 undertaken pursuant to subdivisions (d) and (e), the commission
6 shall conduct expanded focused inspections, either in coordination
7 with the Federal Railroad Administration or as the commission
8 determines to be necessary, of bridges and grade crossings over
9 which oil is being transported and oil unloading facilities, including
10 movement within these facilities and onside storage. The expanded
11 focused inspection program shall target bridges, grade crossings,
12 and oil unloading facilities that pose the greatest safety risk, based
13 on inspection data, accident history, and rail traffic density.

14 (g) The commission may regulate essential local safety hazards
15 for the transport of oil more stringently than federal regulation,
16 pursuant to Section 20106 of Title 49 of the United States Code.

17 ~~SEC. 66.~~

18 *SEC. 14.* Section 7711 of the Public Utilities Code is amended
19 to read:

20 7711. The commission shall annually report to the Legislature,
21 on or before July 1, on sites on railroad lines in the state it finds
22 to be hazardous. The report shall include, but not be limited to,
23 information on all of the following:

24 (a) A list of all railroad derailment accident sites in the state on
25 which accidents have occurred within at least the previous five
26 years. The list shall describe the nature and probable causes of the
27 accidents, if known, and shall indicate whether the accidents
28 occurred at or near sites that the commission has determined,
29 pursuant to subdivision (b), pose a local safety hazard.

30 (b) A list of all railroad sites in the state that the commission
31 determines, pursuant to Section 20106 of Title 49 of the United
32 States Code, pose a local safety hazard. The commission may
33 submit in the annual report the list of railroad sites submitted in
34 the immediate prior year annual report, and may amend or revise
35 that list from the immediate prior year as necessary. Factors that
36 the commission shall consider in determining a local safety hazard
37 may include, but need not be limited to, all of the following:

38 (1) The severity of grade and curve of track.

39 (2) The value of special skills of train operators in negotiating
40 the particular segment of railroad line.

1 (3) The value of special railroad equipment in negotiating the
2 particular segment of railroad line.

3 (4) The types of commodities transported on or near the
4 particular segment of railroad line.

5 (5) The hazard posed by the release of the commodity into the
6 environment.

7 (6) The value of special railroad equipment in the process of
8 safely loading, transporting, storing, or unloading potentially
9 hazardous commodities.

10 (7) The proximity of railroad activity to human activity or
11 sensitive environmental areas.

12 (8) A list of the root causes and significant contributing factors
13 of all train accidents or derailments investigated.

14 (c) In determining which railroad sites pose a local safety hazard
15 pursuant to subdivision (b), the commission shall consider the
16 history of accidents at or near the sites. The commission shall not
17 limit its determination to sites at which accidents have already
18 occurred, but shall identify potentially hazardous sites based on
19 the criteria enumerated in subdivision (b) and all other criteria that
20 the commission determines influence railroad safety. The
21 commission shall also consider whether any local safety hazards
22 at railroad sites have been eliminated or sufficiently remediated
23 to warrant removal of the site from the list required under
24 subdivision (b).

25 (d) The timing, nature, and status of the remediation of defects
26 and violations of federal and state law related to the transport and
27 delivery of oil detected by the commission through its inspections.

28 ~~SEC. 67.— Section 46002 of the Revenue and Taxation Code is~~
29 ~~amended to read:~~

30 ~~46002.— The collection and administration of the fees referred~~
31 ~~to in Sections 46051 and 46052 shall be governed by the definitions~~
32 ~~contained in Chapter 7.4 (commencing with Section 8670.1) of~~
33 ~~Division 1 of Title 2 of the Government Code and this part.~~

34 ~~SEC. 68.— Section 46006 of the Revenue and Taxation Code is~~
35 ~~amended to read:~~

36 ~~46006.— “Administrator” means the person appointed by the~~
37 ~~Governor pursuant to Section 8670.4 of the Government Code to~~
38 ~~implement the Lempert-Keene-Seastrand Oil Spill Prevention and~~
39 ~~Response Act (Chapter 7.4 (commencing with Section 8670.1) of~~
40 ~~Division 1 of Title 2 of the Government Code).~~

1 ~~SEC. 69.~~ Section 46007 of the Revenue and Taxation Code is
2 amended to read:

3 46007. “Barges” means vessels that carry oil in commercial
4 quantities as cargo but are not equipped with a means of
5 self-propulsion.

6 ~~SEC. 70.~~ Section 46008 of the Revenue and Taxation Code is
7 repealed.

8 ~~SEC. 71.~~ Section 46010 of the Revenue and Taxation Code is
9 amended to read:

10 46010. “Crude oil” means petroleum in an unrefined or natural
11 state, including condensate and natural gasoline, and including
12 substances that enhance, cut, thin, or reduce viscosity.

13 ~~SEC. 72.~~ Section 46011 of the Revenue and Taxation Code is
14 repealed.

15 ~~SEC. 73.~~ Section 46011 is added to the Revenue and Taxation
16 Code, to read:

17 46011. (a) “Facility” means any of the following located in
18 state waters or located where an oil spill may impact state waters:

19 (1) A building, structure, installation, or equipment used in oil
20 exploration, oil well drilling operations, oil production, oil refining,
21 oil storage, oil gathering, oil processing, oil transfer, oil
22 distribution, or oil transportation.

23 (2) A marine terminal.

24 (3) A pipeline that transports oil.

25 (4) A railroad that transports oil as cargo.

26 (5) A drill ship, semisubmersible drilling platform, jack-up type
27 drilling rig, or any other floating or temporary drilling platform.

28 (b) “Facility” does not include any of the following:

29 (1) A vessel, except a vessel located and used for any purpose
30 described in paragraph (5) of subdivision (a).

31 (2) An owner or operator subject to Chapter 6.67 (commencing
32 with Section 25270) of or Chapter 6.75 (commencing with Section
33 25299.10) of Division 20 of the Health and Safety Code.

34 (3) Operations on a farm, nursery, logging site, or construction
35 site that are either of the following:

36 (A) Do not exceed 20,000 gallons in a single storage tank.

37 (B) Have a useable tank storage capacity not exceeding 75,000
38 gallons.

39 (4) A small craft refueling dock.

1 ~~SEC. 74.~~ Section 46013 of the Revenue and Taxation Code is
2 amended to read:

3 46013. “Feepayer” means any person liable for the payment
4 of a fee imposed by either Section 8670.40 or 8670.48 of the
5 Government Code.

6 ~~SEC. 75.~~ Section 46014 of the Revenue and Taxation Code is
7 repealed.

8 ~~SEC. 76.~~ Section 46015 of the Revenue and Taxation Code is
9 repealed.

10 ~~SEC. 77.~~ Section 46016 of the Revenue and Taxation Code is
11 repealed.

12 ~~SEC. 78.~~ Section 46017 of the Revenue and Taxation Code is
13 amended to read:

14 46017. “Marine terminal” means any facility used for
15 transferring crude oil or petroleum products to or from tankers or
16 barges. For purposes of this part, a marine terminal includes all
17 piping not integrally connected to a tank facility as defined in
18 subdivision (n) of Section 25270.2 of the Health and Safety Code.

19 ~~SEC. 79.~~ Section 46018 of the Revenue and Taxation Code is
20 repealed.

21 ~~SEC. 80.~~ Section 46018 is added to the Revenue and Taxation
22 Code, to read:

23 46018. “Oil” means any kind of petroleum, liquid
24 hydrocarbons, or petroleum products or any fraction or residues
25 therefrom, including, but not limited to, crude oil, bunker fuel,
26 gasoline, diesel fuel, aviation fuel, oil sludge, oil refuse, oil mixed
27 with waste, and liquid distillates from unprocessed natural gas.

28 ~~SEC. 81.~~ Section 46019 of the Revenue and Taxation Code is
29 repealed.

30 ~~SEC. 82.~~ Section 46023 of the Revenue and Taxation Code is
31 amended to read:

32 46023. “Refinery” means a facility that refines crude oil,
33 including condensate and natural gasoline, into petroleum products,
34 lubricating oils, coke, or asphalt.

35 ~~SEC. 83.~~ Section 46024 of the Revenue and Taxation Code is
36 repealed.

37 ~~SEC. 84.~~ Section 46025 of the Revenue and Taxation Code is
38 repealed.

39 ~~SEC. 85.~~ Section 46027 of the Revenue and Taxation Code is
40 repealed.

1 ~~SEC. 86. Section 46027 is added to the Revenue and Taxation~~
2 ~~Code, to read:~~

3 ~~46027. “State waters” or “waters of the state” means any~~
4 ~~surface water, including saline waters, marine waters, and~~
5 ~~freshwaters, within the boundaries of the state but does not include~~
6 ~~groundwater.~~

7 ~~SEC. 87. Section 46028 of the Revenue and Taxation Code is~~
8 ~~amended to read:~~

9 ~~46028. “Tanker” means a self-propelled vessel that is~~
10 ~~constructed or adapted for the carriage of oil in bulk or in~~
11 ~~commercial quantities as cargo.~~

12 ~~SEC. 88. Section 46101 of the Revenue and Taxation Code is~~
13 ~~amended to read:~~

14 ~~46101. Every person who operates a refinery in this state, a~~
15 ~~marine terminal in waters of the state, or operates a pipeline to~~
16 ~~transport crude oil or petroleum products out of the state shall~~
17 ~~register with the board.~~

18 ~~SEC. 89. Section 13272 of the Water Code is amended to read:~~

19 ~~13272. (a) Except as provided by subdivision (b), any person~~
20 ~~who, without regard to intent or negligence, causes or permits any~~
21 ~~oil or petroleum product to be discharged in or on any waters of~~
22 ~~the state, or discharged or deposited where it is, or probably will~~
23 ~~be, discharged in or on any waters of the state, shall, as soon as~~
24 ~~(1) that person has knowledge of the discharge, (2) notification is~~
25 ~~possible, and (3) notification can be provided without substantially~~
26 ~~impeding cleanup or other emergency measures, immediately~~
27 ~~notify the Office of Emergency Services of the discharge in~~
28 ~~accordance with the spill reporting provision of the California oil~~
29 ~~spill contingency plan adopted pursuant to Article 3.5 (commencing~~
30 ~~with Section 8574.1) of Chapter 7 of Division 1 of Title 2 of the~~
31 ~~Government Code.~~

32 ~~(b) The notification required by this section shall not apply to~~
33 ~~a discharge in compliance with waste discharge requirements or~~
34 ~~other provisions of this division.~~

35 ~~(c) Any person who fails to provide the notice required by this~~
36 ~~section is guilty of a misdemeanor and shall be punished by a fine~~
37 ~~of not less than five hundred dollars (\$500) or more than five~~
38 ~~thousand dollars (\$5,000) per day for each day of failure to notify,~~
39 ~~or imprisonment of not more than one year, or both. Except where~~
40 ~~a discharge to the waters of this state would have occurred but for~~

1 cleanup or emergency response by a public agency, this subdivision
2 shall not apply to any discharge to land that does not result in a
3 discharge to the waters of this state. This subdivision shall not
4 apply to any person who is fined by the federal government for a
5 failure to report a discharge of oil.

6 (d) Notification received pursuant to this section or information
7 obtained by use of that notification shall not be used against any
8 person providing the notification in any criminal case, except in
9 a prosecution for perjury or giving a false statement.

10 (e) Immediate notification to the appropriate regional board of
11 the discharge, in accordance with reporting requirements set under
12 Section 13267 or 13383, shall constitute compliance with the
13 requirements of subdivision (a).

14 (f) The reportable quantity for oil or petroleum products shall
15 be one barrel (42 gallons) or more, by direct discharge to the
16 receiving waters, unless a more restrictive reporting standard for
17 a particular body of water is adopted.

18 ~~SEC. 90.~~

19 *SEC. 15.* Nothing in this act is intended to limit the police
20 power or other authority of a local government or government
21 regulator to enforce any other state or federal environmental law
22 or regulation.

23 ~~SEC. 91. (a) The Director of Finance may make available for~~
24 ~~expenditure in the 2014–15 fiscal year from the Oil Spill Prevention~~
25 ~~and Administration Fund, established pursuant to Section 8670.38~~
26 ~~of the Government Code, an augmentation of Item 0860-001-0320~~
27 ~~of the Budget Act of 2014 in an amount equal to the reasonable~~
28 ~~costs incurred by the State Board of Equalization associated with~~
29 ~~amendments made to Section 8670.40 of the Government Code~~
30 ~~in the 2013–14 Regular Session.~~

31 ~~(b) Any augmentation shall be authorized no sooner than 30~~
32 ~~days following the transmittal of the approval to the Chairperson~~
33 ~~of the Joint Legislative Budget Committee.~~

34 ~~SEC. 92.~~

35 *SEC. 16.* No reimbursement is required by this act pursuant to
36 Section 6 of Article XIII B of the California Constitution because
37 the only costs that may be incurred by a local agency or school
38 district will be incurred because this act creates a new crime or
39 infraction, eliminates a crime or infraction, or changes the penalty
40 for a crime or infraction, within the meaning of Section 17556 of

1 the Government Code, or changes the definition of a crime within
2 the meaning of Section 6 of Article XIII B of the California
3 Constitution.

4 *SEC. 17. This act shall not become operative unless Senate*
5 *Bill 861 of the 2013–14 Regular Session is enacted and becomes*
6 *operative.*

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